

A CASE FOR TRANSITIONAL GENDER JUSTICE IN MALI

Johanna Elisa Kaarina Virtanen
University of Helsinki
Faculty of Social Sciences
Department of Political and Economic Studies
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Tiivistelmä – Referat – Abstract <p>This thesis aims at analyzing the prospects of delivering transitional gender justice in Mali. Basing on (post-colonial) feminist accounts on transitional justice, this thesis critically analyzes the European Union support for Malian transitional justice process from the perspective of women's rights and gender justice promotion. Supported with empirical data collected in Mali among local civil society organizations and other actors working around transitional justice and human rights, this thesis argues for a holistic and transformational approach to promoting women's rights within the transitional justice process in Mali. This transformational approach to gender justice takes into consideration the legal realm connected to transitional justice process together with the broader socio-political processes, which establish the foundations for more equitable gender relations in transitional contexts.</p> <p>This case study is a contribution to feminist discussions on transitional justice. Moreover, it aims at a critical scrutiny of European Union's approaches to promote women's rights through transitional justice processes in Sub-Saharan Africa. The thesis takes as its starting point the EU Policy Framework on support to transitional justice and its pledge on gender-sensitive approach to transitional justice. This policy approach follows an increasing concern among academics, practitioners and activists, who have aimed at pointing to gender biases inherent in dominant discourses of and approaches to transitional justice in fragile contexts.</p> <p>The European Union has a multifaceted role in supporting Malian transitional process. The results of the thesis indicate that the current European Union's action in Mali in relation to transitional justice and gender justice focuses on strengthening the national formal justice system and supporting security sector reform by, for example, infrastructure support and training judicial and security personnel. These results suggest that through its support to the Malian transitional justice the EU is committed to the liberal state- and peacebuilding framework, where women's rights enhancement and civil society inclusion do play a role, but where the shortcomings of the postcolonial state to deliver gender justice are not fully acknowledged. The results suggest that support for local civil society and conducting awareness-raising initiatives in communities may provide solutions in relation to delivering transitional gender justice and enforcing women's rights in crisis-torn Mali.</p> <p>Embracing critical notions on the post-colonial state and its shortcomings in relation to women's rights enforcement in a transitional context, this thesis argues that the EU's approach to supporting transitional justice in Mali might partly fall short of its broader goals relating to gender justice promotion. These results are more broadly important in the Sub-Saharan African context, where the legacies of colonialism still have a major impact on state- and peacebuilding efforts that are informing transitional justice initiatives and international actors' interventions regarding transitional peace and statebuilding processes. This thesis is thus a unique contribution to feminist discussions around transitional justice and the European Union support to transitional justice in Sub-Saharan Africa, and the prospects of enforcing women's rights in Mali.</p>		
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ACRONYMS

ASFC	Avocats sans frontières Canada
CSDP	Common Security and Defense Policy
CSO	Civil Society Organization
CVJR	Commission, Vérité, Justice et Réconciliation
EEAS	European External Action Service
EDF	European Development Fund
EIDHR	European Instrument for Democracy and Human Rights
EU	European Union
EUCAP	European Union Capacity Building Mission in Mali
EUPF	European Union Peacebuilding Framework
EUTM	European Union Training Mission
HIBISCUS	Harmonisation et Innovations au Bénéfice des Initiatives de la Société Civile d'Utilité Sociale
ICC	International Criminal Court
ICTJ	International Center Transitional Justice
MINUSMA	The United Nations Multidimensional Integrated Stabilization Mission in Mali
NGO	Non-Governmental Organization
NPE	Normative Power Europe
SSR	Security Sector Reform
UNSCR	United Nations Security Council Resolution

1 INTRODUCTION

Societies in transition from conflict towards peace are faced with a complex set of challenges that are connected to both peace- and statebuilding. Peace operations now include a large number of explicit and implicit objectives that aim at a holistic societal transformation that would establish the building blocks for a lasting peace. The contexts where peace- and statebuilding is designed and implemented are often fragile, and complex processes are depended on weak or non-existent institutional structures. Finding holistic approaches to building up peace, (re)structuring state institutions, and fighting impunity for human rights violations while reconciling societies and communities are among the most difficult tasks presented for conflict-torn societies.

After systematic human rights violations and violence, societies and parties of a conflict may opt for pursuing transitional justice initiatives as a part of a peace agreement to redress the legacies of human rights violations. Interest among international actors and donors, including the European Union, to support transitional justice as a means to promote potentially holistic societal change in societies in transition has become apparent. In 2015, the Council of the European Union adopted the EU Policy Framework on support to transitional justice (Council of the European Union 2015a) as a part of the implementation of the EU Strategic Framework and Action Plan on Human Rights and Democracy 2015–2019 (Council of the European Union 2015b: 20). The EU Policy Framework outlines the EU’s policy priorities regarding its support to transitional justice measures in third countries, that way becoming “the first regional organization to have a dedicated strategy concerning transitional justice” (General Secretariat of the Council of the EU 2016: 17).

The Council conclusions of the Policy Framework recognize that “transitional justice is an integral and important part of state and peacebuilding and therefore must be integrated in the wider crisis response, conflict prevention, post-conflict recovery, security and development efforts of the EU” (Council of the European Union 2015a: 2). The EU’s support to transitional justice is therefore explicitly situated ‘within the security-development nexus paradigm’ (ibid: 31) guiding increasingly the actions of donors in fragile contexts (Alava 2010). As the EU’s involvement in peace processes in the Global South becomes more prevalent, the implications of framing transitional justice as an

instrument promoting human rights compliance together with inherently a Western liberal peace project embedded in state- and peacebuilding efforts calls for thorough empirical scrutiny.

To contribute to the endeavor of analyzing the EU's approaches to support transitional justice in the Global South, this thesis takes as its starting point an important part of the EU Policy Framework, namely its pledge on gender-sensitive approach to transitional justice. This policy approach follows an increasing concern among academics, practitioners and activists working on the field of transitional justice, who have aimed at pointing to gender biases inherent in dominant discourses of and approaches to transitional justice in fragile contexts. To contribute to this strain of scholarly work, I set out to analyze the challenges and prospects of delivering transitional gender justice in Mali. Transitional gender justice takes into consideration the legal realm connected to transitional justice process together with the broader socio-political processes, which establish the foundations for more equitable gender relations in transitional contexts.

At the time of writing in spring 2020, Mali is going through a transitional justice process following an outbreak of a crisis and coup d'état in 2012. Mali provides with a particularly suitable case for the aims of this thesis, as the European Union has a major role in relation to peace- and statebuilding efforts in Mali. The transitional phase in Mali has been extremely difficult, and the crisis is still ongoing especially in the Northern parts of the country. As a part of the 2015 Algiers Peace Accord implementation aiming at restoring a durable peace, there is an ongoing national transitional justice process that was prolonged from the original mandate until the end of 2021. Actions regarding justice for human rights violations, women's rights promotion, and the transitional justice process demand the input of all sectors and social groups, especially – as this thesis argues – the inclusion of civil society organizations (CSOs), including women's organizations. Therefore, I hope the results of this thesis contributing to the discussions on how to bring about positive outcomes for women and to foster transitional gender justice in Mali.

By interviewing local actors' perceptions on the prospects of delivering transitional gender justice in Mali, and looking at the EU's actions in support for transitional (gender) justice, this thesis aims at providing empirical support to critical feminist accounts on transitional justice that emphasize civil society inclusion to transitional justice processes in order to deliver transitional gender justice in post-colonial contexts. Basing on interviews conducted in Mali with actors working on transitional justice and human

rights, I aim at bringing forth local perspectives on the needs regarding transitional justice, gender justice, and women's rights. Supported by an analysis of relevant policy documents and interviews with EU personnel working in Mali on related issues, I aim to critically assess the EU's actions and approaches to support transitional (gender) justice in Mali. Through this approach, I aim at creating an understanding of whether the gender-sensitive approach as a policy has been put into practice in the case of Mali.

Women's rights promotion is a difficult task in a conflict-torn and insecure Mali, where the crisis has inflicted most harm for women and girls. In addition to the gender-sensitive approach, the Framework adopts a victim-centered approach, which, in the case of Mali, should mean prioritizing the needs of women. Also, the Framework recognizes as its guiding principles the strive for "genuine understanding of specific contexts and needs" (Council of the European Union 2015a: 22). Therefore, the policy approach outlined in the Framework gives weight for bringing forth local voices, which informs us in defining the needs of Malian women in relation to transitional gender justice.

1.1. Research Questions, Scope and Structure of the Thesis

This thesis is a contribution to feminist discussions around transitional justice and international actors' approaches to promote women's rights through transitional justice processes in the Global South. It adopts a critical approach in analyzing European Union actions in Mali regarding support for transitional (gender) justice. This qualitative case study provides an insight to the implicit assumptions, and to the implications of the EU's support policy and practice on transitional justice with regard to women's rights promotion in Sub-Saharan African context.

In my research, I am committed to a normative approach, which contributes to informing the European Union in its actions aiming at promoting transitional gender justice in the Global South. Bell & O'Rourke (2007: 43) claim in their seminal introductory essay on the relationship between feminist theory and transitional justice that feminist research should contribute to widening the understanding of transitional justice in terms of a strategic component in feminist struggles in trying to secure material gains for women in transition, while "grounded empirical research into the gender implications of current transitional justice mechanisms can inform best practice in setting the mandate, composition and rules of operation of future transitional justice mechanisms." By looking at the case of Malian transitional justice process, I aim at contributing to discussions on

transitional justice initiatives and related feminist struggles in Sub-Saharan African context, where funding for transitional justice processes is mainly depended on donors such as the EU.

Data for the study was collected in Bamako, Mali, in January/February 2020 in total with 12 local actors working around transitional justice and/or human rights. In addition, in total six European Union personnel were interviewed for the study, four of whom were interviewed in a focus group meeting during my stay in Bamako, and two of whom were interviewed via phone and email. The interviews were guided by a four-fold aim to combine the aspects mentioned until now. The aim was to create an understanding of:

I) Which aspects affect gender (in)justice in Mali?

II) What difficulties or opportunities do women in Mali face in relation to access to justice?

III) How do the interviewees perceive the transitional justice process in relation to gender justice? What is the role of civil society in promoting gender justice in Mali?

V) What is the role of the EU in providing support to transitional (gender) justice in Mali?

These questions guides the analysis, which aims at creating an understanding of aspects that have an impact on the realization of transitional gender justice in Mali, and what is the approach of the EU in providing support for transitional (gender) justice in crisis-affected Mali.

The structure of the thesis is as follows: I continue the introduction chapter by presenting the research approach, and by addressing epistemic, positional and ethical questions related to feminist research in a fragile context. The second chapter presents the essential conceptual frameworks related to the European Union as an actor in the non-European world. In the third chapter, a theoretical and conceptual framework related to transitional gender justice is presented. The chapter will introduce dominant discussions and theoretical accounts on transitional justice that are complemented with a critique, which creates a foundation for the critical feminist approach used in this study. In the fourth chapter, I present the research methodology. In the fifth chapter, I enlighten the context of the case study, and introduce country-specific issues related to the history of, and

transitional justice process in Mali. In the sixth chapter, I present the results of the analysis done on the empirical data with methods described in the chapter five. The following discussion will develop the argument of the thesis and connects the results to the theoretical framework. I conclude with the main findings of the study.

1.2. Research Approach

The core questions guiding the case study are aimed at helping to create an understanding of the EU's role in Mali in delivering gender justice, and thus contributing to feminist theoretical discussions on transitional justice. The case study is partly descriptive in the sense that it aims at describing the characteristics of the case at hand, in other words, describing the reality characterizing the policies that inform the creation of the concept of transitional justice. Using her research on the concept of responsibility to protect as an example, Orford (2012: 611) points to the benefits of using description in trying to deal with 'a gap between practice and critique'. Responsibility to protect, according to Orford, is best understood as "a means of rationalizing and integrating already-existing practices of executive rules". This point, then, is best argued by focusing on the careful description of practice, which has later evolved as a concept or doctrine (2012: 615–616).

Much like responsibility to protect, transitional justice touches upon questions relating to state sovereignty, the former relating to the justification of military interventions, and the latter relating to interventions to the national judicial realm. Thus, while the concept of transitional (gender) justice is informed on the local level by e.g. interpersonal and gender power relations; on the national level by e.g. religious power relations; on the regional level by e.g. ethnic power relations; on the international level by e.g. earlier colonial power relations – transitional justice is also largely about global power politics¹. While neither responsibility to protect, nor transitional justice were created to exclusively legitimize new forms of interventions, both have undoubtedly contributed to legitimizing some existing forms of interventionist actions. Although Orford's appraisal of description is directed to legal scholars, I think her notions are well applicable in informing my aspirations to contribute to knowledge production around the process of the emergence

¹ This last factor – namely addressing global power politics – falls outside my analysis, as I will not take into consideration the dynamics of different member states of the European Union, or other Western countries presented in Mali. Also, the role of the United Nations is left out for the most part, although the UN stabilization mission's mandate, which acknowledges support for justice and reconciliation, might have some impact regarding the EU's actions in Mali and further in Sahel.

and consolidation of the European Union's conception for transitional (gender) justice as an interventionist policy in the Global South.

Despite the outright interventionist, and in some extent developmentalist top-down approach to delivering gender justice and securing women's rights enforcement in transitional contexts in the Global South, feminist empirical analysis has remained marginal in the field. Scholars embracing critical theory have aimed at deconstructing implicit narratives embedded to transitional justice, pointing e.g. to the shortcomings of liberal international peacebuilding approaches (Sharp 2018). Systematic scrutiny of these approaches, and of their implications regarding women's rights promotion through transitional justice processes is, nonetheless, lacking. Furthermore, empirical (critical) research on the European Union's approaches to support transitional justice is in the hands of just a couple of scholars.

My approach contributes to looking at the "kind of power the EU wields and with what effect rather than debating what kind of power the EU is" (Smith 2010 as cited in Davis 2014: 3). In this thesis, the power of the EU is looked at through the question: does the EU use its power regarding transitional gender justice and women's rights promotion in Mali? The EU policy and practice are analyzed in the light of feminist accounts on transitional gender justice in a fragile post-colonial context. I aim at contributing to an attempt to look for ways to mitigate Eurocentrism in research about the EU's engagement in peace processes (Davis 2016: 3–4) by privileging Malian civil society and legal actors' perceptions on the prospects of delivering gender justice through the transitional justice processes in Mali.

It is important to acknowledge in the context of this thesis, that on all the levels from local to global, the concept of transitional justice is informed by gender relations, and by power politics related to gender. As one of the most renowned scholars on transitional and transformative gender justice states:

At the heart of feminist theorizing lies the commitment profoundly to recalibrate power relationships, drawing from the singular insight that transformation depends on the redistribution of formal and informal power." (Ní Aoláin 2019: 151–152.)

Engaging to the scrutiny of feminist accounts on transitional justice means the simultaneous engagement to this task that Ní Aoláin articulates above – where scholarly work is connected – and in gratitude – to the work of those advocates and activists, who

fight every day to render intersectional power imbalances visible and change them for the benefit of the silenced and marginalized.

Next, I turn to look at questions specifically relating to feminist research approach.

1.2.1. Epistemic and Positional Questions in Feminist Research

I approach the key concepts of this thesis – i.e. gender justice, women’s rights and transitional justice – from a critical feminist theoretical standpoint to transitional justice, where the key question is: where are women and gender in transitional justice? (Bell & O’Rourke 2007: 23). Due to my approach, my methodological choices can be anchored to constructivist ontology, and by that, to an epistemology approving subjective knowledge production (Kirsch 1999: 7). That is to say, women’s rights and gender justice as well as the institutions and structures defining them are socially constructed, and research can thus present ways how to reconstruct them (Baines 2005: 143).

As a part of this epistemic standpoint, it should be acknowledged that in general terms, qualitative empirical social science research entails that the researcher and the researched create a relationship that is shaped by dynamics of power, gender, and class among other factors, subjecting the data collection to possible biases (Kirsch 1999: 42). That is why the researcher should have realistic expectations regarding the outcome of the encountering, and she should find ways to deal with “potential misunderstandings, disappointments, and power inequities” (ibid.).

The feminist approach that this thesis adopts in conducting a qualitative case study is fundamentally biased in that it is informed and motivated by a long history of feminist endeavors in bringing about social change by underlining the female experience (Kitzinger 2004). In other words, my research is deeply normative in privileging the female voice in providing empiric data used in the analysis. Therefore, the main concerns related to questions around credibility in relation to the case study at hand are methodological and ethical. In order to take into consideration also the fragile context that Mali is, in the following section I will reflect on these issues by leaning on conceptualizations provided by (post-colonial) feminist scholars.

1.2.2. Self-reflexive Research on Transitional Justice and Gender in Fragile Post-Colonial Context

Researching transitional justice and its connections to interventionist developmentalism in the Global South demands heightened self-reflexivity, or perhaps even an endeavor towards *hyper-self-reflexivity* (Kapoor 2004). Kapoor reminds experts and scholars working around development about the importance of Gayatri Spivak's extensive lifework against epistemic violence, which should include a constant reflection on the representations we reproduce of the subaltern. In Spivak's work (as cited in Kapoor 2004: 629), epistemic violence is presented as an imperial continuum that has resulted in naturalization of Western superiority and dominance. This places the Western researcher/expert in a position where she nearly inevitably marginalizes or silences the subaltern through othering, essentialization, romanticisation, or justification of power and domination.

Hyper-self-reflexivity becomes of utmost importance when considering developmentalism and feminist approaches to development. Spivak claims that our inability to acknowledge our complicities in relation to structural inequalities deriving from the colonial past has resulted in reinforcement of patriarchal imperial strategies suppressing the subaltern woman: "Imperialism's image as the establisher of the good society is marked by the espousal of the woman as *object* of protection from her own kind" (Spivak 1988: 299). The civilizing interventionist project has always meant that the will or need uttered by the subaltern has always been peripheral to the ones articulated in the West: even if the subaltern woman has been given her voice, she has not been heard (Kapoor 2004: 633; Spivak 1988: 294–296).

Another important take Kapoor makes on Spivak's work in relation to knowledge production is a binary between practice and theory, the latter of which Western academy and intellectual are privileging (Spivak 1988, as cited in Kapoor 2004: 633). The subaltern is silenced and suppressed once again when the researcher observes practice and/or narrative, which are artificially stripped off from theoretical basis by rendering Western academia as "the 'center' for value-added theory" (Kapoor 2004: 633). This is in line with Chandra Talpade Mohanty's seminal work on Western feminist scholarship and its relation to the production of colonial discourses on Third World women (1984). The coloniality she describes is "predominantly discursive one, focusing on a certain mode of appropriation and codification of "scholarship" and "knowledge" about women in the

third world”, thus indicating the hegemonic position of Western (feminist) academia (1984: 333).

These groundbreaking post-colonial feminist intellectuals, such as Spivak and Mohanty, do not leave an easy task for a budding researcher, whose academic interest arise from the lived realities of Third World women who have witnessed or experienced violence, whether physical or structural, and whose coping and survival means might lean on such creativity and perseverance that is impossible to describe. In pursuing (hyper-)self-reflexivity with regard to positioning Western feminist theoretical accounts on transitional justice within a post-colonial fragile context, there is a heightened need for reflexivity regarding methodological choices.

In search for methodological approaches that will (most likely) never abate all biases producing epistemic suppression between the North and the South, but might provide with direction for field-work methods in a fragile context, I have aimed at looking for reflective descriptions of empirical research in a conflict-context. This approach has turned out especially useful in finding ways to come to terms with the limitations of my study, which are linked as much with my “socioeconomic, gendered, cultural, geographic, historical, and institutional positioning” (Kapoor 2004: 627) as they are linked with – as simple as it is – lack of resources.

1.2.3. Feminist Research Approach

Feminist research approach is aiming at bringing forth oppressive structures by using gender as its key analytical tool, while having “an emphasis on emancipatory goals”, which could mean e.g. enhancing women’s capabilities in having a greater impact on their own lives (Kirsch 1999: 7). This poses a challenge regarding issues related to representation, as is argued above. Researching transitional justice with a focus on women’s rights includes a risk of portraying women only as passive victims who are at the mercy of war criminals, exploitative and illegitimate state, or both.

Baines (2005) acknowledges post-colonial feminist critique on essentialization and victimization as an essential starting point to solve problems related to representation in a fragile (post-) conflict context. Methodologically post-colonial feminism enables the researcher to “challenge the power-riddled relationship between researchers and the researched, calling upon researchers to reflect upon their own subject positions, and how these shape the research process and agenda” (Baines 2005: 144).

Portrayal of Malian women only as victims would be harmful for the argument I build in this study, as it aims at a critique of interventionist approaches to transitional justice in a fragile context, where the state is struggling, to say the least, to enforce human rights compliance. When “rolling back the state” has gone out of hand, and there is only limited control over consequences regarding the security of vulnerable groups, it could be easy to jump into conclusions of a need for intervention, thus arguably placing, in Spivakian terms, “the woman as *object* of protection from her own kind” (1988: 299).

I have aimed, on the one hand, at validating Malian women’s experience by hearing their voices (Kitzinger 2004) through interviews, and on the other hand, at providing Malian women with subjectivity by interviewing civil society and other female actors working around women’s rights and justice related issues. Specifically, I used elite interviews, which “rely on the expertise, experience and appraisal of informants” (Mageza-Barthel 2016, 151). This approach was necessary in order to gather rich data on local perceptions on the transitional justice process, women’s rights advocacy, and the EU’s role in supporting these aspects in Mali. Mageza-Barthel (2016: 155) notes that in using elite interviews where informants – both in her and my study – involves leading women’s rights advocates, civil society actors, and political elites, the power roles might shift. This provides mitigation to the problem Spivak (1988), Mohanty (1984), and Baines (2005) articulate in relation to the privileging of Western knowledge production that works through an extraction and presentation of subaltern experience. Using only the elite as informants, it becomes easier for a research novice to reflect on ways to provide the research results with accountability, i.e. “to provide those ‘being researched’ with the final ‘product’” (Baines 2005: 151).

In the next chapter I begin to construct a conceptual and theoretical framework with which to approach the case study at hand.

2 EUROPEAN UNION FOREIGN POLICIES, LIBERAL PEACEBUILDING AND TRANSITIONAL (GENDER) JUSTICE

The European Union's policies on support for transitional justice and on promotion of women's rights through transitional justice initiatives derive from broader policy alignments regarding European Union foreign policy, external action, and peacebuilding efforts. The academic field of transitional justice was long unable to approach systematically the analysis of transitional justice as belonging closely to international peacebuilding efforts (Andrieu 2010: 539) whereas, in 2015, the EU Policy Framework on support for transitional justice (hereinafter the EU Policy Framework or Framework) explicitly connected support for transitional justice to state- and peacebuilding efforts, as indicated in the beginning of the introduction chapter. Although research on the dominant approaches to transitional justice in the cadre of liberal peacebuilding has been extending, research on the EU as an actor on the field of transitional justice remain scarce. Moreover, research on the gendered impacts of EU approaches to transitional justice is even more rare².

Conceptually, the global liberal peace project has provided a framework for the EU's policies and actions around peacebuilding in the Global South (Richmond et al. 2011). In this thesis, I follow the footsteps of critical scholars that have analyzed the impacts of the liberal peacebuilding paradigm, which has been defined as consisting of a variety of international actors pursuing market democracy in post-conflict countries: "The central tenet of this paradigm is the assumption that the surest foundation for peace, both within and between states, is market democracy, that is, a liberal democratic polity and a market-oriented economy" (Paris, 1997). The core critique prevailing since the 1990's are connected to the fragility of social cohesion and state structures, which liberal peace approach might exacerbate in a post-conflict context (Paris 1997; Richmond 2012).

Although the scholarly discussions on liberal peacebuilding have developed to consider more broadly the local agencies informing the emerging peace (Richmond 2010;

² Laura Davis is among the few scholars that have been studying the EU's transitional justice policies together with an analysis of gender perspectives. Davis has conducted several empirical studies in Sub-Saharan African countries, including Mali, on the EU's agency regarding peace and justice in these countries. Her study on Mali (2015) considers the EU's actions relating to peace and justice before 2015. Thus, my case study is relevant now after the EU has had time to implement the 2015 Policy Framework.

Randazzo 2017), the policy and practice seem to follow slowly. Transitional justice is a sign of this dominating liberal peace approach, as it is now recognized as a part of the “liberalizing ‘post-conflict checklist’” around the world, the EU Policy Framework being one prove of this development (Sharp 2018: 97; Davis 2014: 2). The dominant liberal peacebuilding approach inherent in support policies for transitional justice is, according to critical scholars and practitioners of transitional justice, dominated by state-centric approaches (Andrieu 2010; Sharp 2018: 95–114). This has, as I point out below, implications with regards to promoting gender justice in fragile post-colonial contexts.

The liberal peace project and statebuilding are intertwined in multiple ways that inform the EU’s interventions pursuing durable peace in the Global South. Multifaceted policies aiming at the promotion of core values of the EU outside its territory are entwined with an international project to build liberal/neoliberal states serving the free market and Western style representative democracy (Richmond et al. 2011; Andrieu 2010). Despite the efforts to broaden its approaches to promote just and durable peace, the EU seems unable to break from a civilizing project where non-European nation-states’ territorial sovereignty and security are prioritized over localized needs-based approaches to post-conflict governance (Richmond et al. 2011). As a result, the means of post-conflict governance, paradoxically, breach partly the sovereignty of the countries. This ambivalence also touches upon the EU’s actions in relation to support for transitional justice initiatives, which I will address in the Discussion-part of this thesis.

From the point of view of transitional gender justice, state-centric approaches to liberal peacebuilding and post-conflict governance might be harmful in fragile post-colonial contexts, such as Mali. In addition to the post-colonial state’s inability to provide basic security provisions or access to justice for women, the public-private divide together with patriarchal forms of representative liberal democracy that the dominant liberal peace project sees as an implicit end goal do not serve a gender-sensitive approach that the EU Policy Framework aims at embracing (Reilly 2007). Also, legal pluralism – a socio-legal reality characterizing many of the Sub-Saharan African societies – may prevent all efforts regarding women’s rights enhancement when assistance to the justice sector fails to consider, on the one hand, local power asymmetries and, on the other hand, possibilities for women embedded in other local socio-legal realms outside the conventional institutions enforcing donor-driven rule of law (Bendaña & Chopra 2013).

In its treaty base, the European Union is explicitly committed to promoting *values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights* in its external relations (European Union 2007). In addition, the EU

shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter. (European Union 2007.)

In this chapter, I highlight scholarly work that explains EU foreign and peacebuilding policies by depicting the EU as a normative power promoting values that it endorses in its own constitution cited above. The concept of *Normative Power Europe* (NPE) and critics of it help us understand the hegemonic role of the values and principles that the EU promotes in its external relations and foreign policies. Looking at the *EU peacebuilding framework* (EUPF) informs us on how interests interact with these principles, and shape the EU's peacebuilding policies and practice and, hence, its policies to support transitional justice and gender justice in the Global South. In addition, I introduce the relevant EU policies regarding support to transitional justice and women's rights promotion in the transitional context and discuss them together with relevant research with a focus on gender and civil society.

The chapter aims at examining how the explicit and implicit goals of the EU's foreign policy and external action support the liberal state building project embedded in dominant discourses of and approaches to transitional justice in the Global South. The fundamental normative principles have an impact on the EU's foci in its actions regarding state- and peacebuilding efforts, and, more importantly, the EU's support to transitional justice. Together with the following chapter on critical feminist approaches to transitional justice, this chapter creates the theoretical and conceptual foundations for understanding the EU's approaches to support for transitional (gender) justice in Mali.

2.1. European Union as a Normative Power

European Union external action has been explained through the concept of Normative Power Europe (NPE), first coined by Manners (2002). The term was created to broaden the discussions over the conception of the European Union as neither a military power coercing third parties with armed forces, nor a civilian power whose repertoire of action consisted of economic power, diplomacy, and supranational institutions (Manners 2002: 236–237). Manners pointed to the normative approaches that the EU adopts through its

agency in world politics to have a transformative impact both inside and outside its territory, and in the system of international relations. He recognized different mechanisms with which the EU diffuses its core norms, and thus is able to *shape conceptions of 'normal'*. Manners' idea has been accepted broadly, and as Stocchetti (2013: 19–20) puts it,

the true power of the Union lies in its ability to project its core values beyond its borders and, in so doing, in its ability to redefine what is “normal”, “acceptable” or even “preferable” in international relations —.

In his seminal article, Manners (2002) names the EU's founding principles related to its practices, constitution, and policies. He later refined the core of NPE as consisting of nine values and principles “the complex interaction of [which] is constitutive of the EU's relations with the rest of the world” (2006: 38) (see Figure 1).

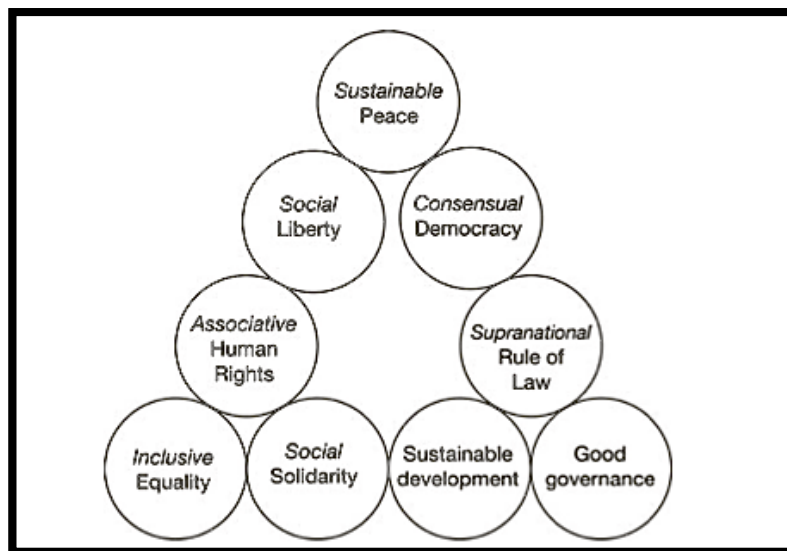


Figure 1: European Union values and principles, as presented in Manners 2006: 38.

Several scholars, including Manners himself, have extended the discussions related to the concept of Normative Power Europe (see Lucarelli & Manners 2006; Tocci 2008; Forsberg 2011). Although broadening the meanings of the concept, the voice of the Global South has had little room in the discussions on NPE. NPE is rising from the strongholds of European traditions of knowledge production where non-European epistemologies have had minor or no role in informing the discussions over European global power. Post-colonial critical readings of European international relations and

related theoretical traditions are aiming at bringing forth the epistemic marginalization of non-European knowledge over the European agency in the non-European world, following, as an example, Edward Said's notions of the hegemonic power of the west over the rest, i.e. the Orient.

Staeger (2016: 995) finds NPE as wielding seemingly universal norms that further consolidate Eurocentrism as a hegemonic discourse defining EU-Africa relations. His call for decolonization of knowledge production on EU foreign policy and international relations takes part from demanding more plural voices to "avoid reproducing the paternalist mistakes Europe has committed in the past". The neoimperial tendency of NPE is captured in "the understanding that EU foreign policy is 'normative' and that the reason for this lies in what the EU is" (Tocci 2008: 3). NPE is incapable of acknowledging even the slightest of the legacies of colonialism that have an indisputable role in defining *what the EU is*. As Onar & Nicolaïdis (2013: 284–285) point, NPE is thus contributing to making the counter-Eurocentric action in IR more difficult, and consolidating "attitudes that echo the era of European imperialism" that make the EU agents "often oblivious to the counterproductive outcomes generated in the 'non-European' world".

In order to question the perpetual European *mission civilisatrice*, Onar & Nicolaïdis (2013) call for researchers to empirically provide with alternative narratives of the world history and IR; to engage with plural epistemologies and perspectives of the EU's actions in non-European world; and to recognize the colonial history as a defining component in the EU's external action. As a part of this endeavor, they call for critical scrutiny of the human rights discourse, which has – on the one hand – provided protective instruments benefiting a major part of the world, while – on the other hand – legitimized "its availability for manipulation by western powers as grounds for a *certain kind* of intervention in the affairs of countries in the global South that may not conform to local approaches to justice" (2013: 295, emphasis in the original).

This point is of importance when considering the imposition of transitional justice measures with the support of the European Union. Whether and how these measures are promoted, tells about the EU's capabilities of adopting locally sensitive approaches in its relations to the wider world, and the strength of will regarding a truly post-colonial European Union. Onar & Nicolaïdis' aim is not to wipe the EU out from the international arena, but rather render its impact more 'meaningful' by including more voices to the ways we look at the global order. Following this thought, this thesis is neither aiming at

pushing the EU away from the field of transitional justice, but rather looking at the EU's agency from a feminist, gender justice perspective emphasizing local perspectives, in order to find *more meaningful ways* for the EU to support the Malian transitional justice process.

Lastly, another important take from the critique of NPE, that Manners (2006) himself reminds of, is that the core principles of the European Union, such as respect for human rights and dignity, are neither inherently nor exclusively European, but rather all-encompassing, universal, and overall humane.

2.2. European Union Peacebuilding Framework, International Liberal Peacebuilding, and Transitional (Gender) Justice

The founding principles of NPE are at the core of the European Union agency in promoting the global liberal peace project in the Global South (Müller 2019; Richmond et al. 2011). In their search for foundations for an emerging European Union peacebuilding framework (EUPF), Richmond et al. (2011) connect the core values of the EU recognized by Manners (2006, as presented in *Figure 1*) conjoining EU's current "third-generation" approach of liberal peacebuilding with the ideal emancipatory "fourth-generation" approach. More precisely, currently the EU "concurs with the liberal peacebuilding framework on the needs for stable states, security, rights, institutions, rule of law, civil society and development" (2011: 452). Richmond et al. aim at pointing that the EU has strived for including more of a bottom-up and emancipatory approach to peacebuilding that would lean strongly to private actors and social movements instead of the state, and put emphasis on needs-based analysis and action together with social welfare and justice (2011: 454). Although provided with a strong normative foundation that would legitimize a more inclusive and locally emancipatory approaches to peacebuilding, the EU is incapable of transcending the focus on "Westphalian sovereign state, security, rights, the market, and the rule of law" (2011: 450).

Richmond has contributed, among others, to the criticism of liberal peace with a broad body of literature that aim at pointing to the top-down, culturally insensitive, and seemingly neutral and apolitical technocratic forms of post-conflict governance that might, at its worst, exacerbate social tensions instead of promoting peace (Richmond 2004, 2009; Andrieu 2010; Sharp 2018: 93–136). The criticism towards the liberal peacebuilding approach does not only touch upon liberal peace, as it is closely connected

to a myriad of global projects aiming at contributing to peace and development – or just broadly speaking, to progress; in fact, it would probably be easier to try to define liberal peacebuilding through looking at what it is *not* (Sharp 2018: 105). As a framework it is fluid and easily adaptable for the uses of different actors in answering global challenges connected to (civil) conflict. Indeed, it is important to note that the EU is not the sole liberal peace actor, as the wider “international community”³ is committed to promote

norms and practices from global core to periphery as part of what some have called a modern-day civilizing mission, with ‘LDCs’, ‘failed state’, and ‘mass atrocities being the modern equivalent of the historical ‘uncivilized’, prizing open the gate to intervention – with the best of intentions, of course – into matters once protected under the aegis of sovereignty and self-determination. (Sharp 2018: 106).

Seemingly neutral approaches to peacebuilding processes, which – in fact – penetrate the very core of sovereign states, now include transitional justice as a part of the peacebuilding toolbox, that embraces the realm of law and legality as an “easy way out” from politics. The straightforward implications of the de-politicization of transitional justice as an instrument promoting liberal peace touches closely upon the question of this thesis, namely the prospects of delivering gender justice in a transitional post-colonial context. I now introduce briefly some of the critical accounts on transitional justice that touch upon liberal peacebuilding and are essential in building up a critical approach to analyze EU practice regarding support for transitional justice.

Rosemary Nagy (2008) argues that the global legalist paradigmatic approach to transitional justice hinders from considering local realities or needs with regards to delivering, in Galtung’s terms, both negative and positive peace. Negative peace aims at liberation from physical violence, while positive peace aims at social justice by eradicating structural violence, or by “integration of human society” (Galtung 1964: 2). Because of the prevailing emphasis on legalist approaches to promoting liberal-democratic ideals and accountability on violations of civil and political rights over advocacy on economic⁴ and social rights, the global project of transitional justice – Nagy argues – fails to consider gendered aspects of conflict and structural violence. In short, the dominant approaches to the global liberal-democratic project of transitional justice

³ Sharp (2018) refers to “international community” with quotation marks without specifying any actors belonging to this group. It seems, that with the term he refers to a group of donor countries, international organizations, and other actors (such as international NGOs) that have an interest in contributing to transitional justice processes around the globe, while with the quotation marks he indicates that the “community” is not a harmonic one but rather consisting of different interests in relation to peacebuilding, transitional justice, and the Global South.

⁴ A theoretical discussion on the shortcomings of liberal peace project in terms of addressing economic justice, and more broadly the political economy of transitional justice, see Franzki & Olarte 2014.

“tends to favor freedom and liberty over equality” (Mani 2002 as cited in Nagy 2008: 278).

In her critical article, Sriram (2007) argues that the liberal peacebuilding approach that constitutes the implicit aims of transitional justice enables the latter to become subjected to the same critique as the former. As both share the implicit ideal of democracy and justice bringing and sustaining peace, it is also possible, she argues, for both to disregard local political and cultural realities, and alternative perspectives for delivering peace and justice.

Transitional justice consists of a variety of measures, tools, and strategies that are not all equally related to strategies of liberal peacebuilding.⁵ Sriram points, that

some tools of transitional justice are explicitly linked to democratic processes; peacebuilding tools such as judicial reform, reform of the security forces and the inclusion of former rebels and “vetted” former members of security forces are also often explicitly tied to processes of transitional justice. As such, some tools of transitional justice will be more vulnerable to the critique of liberal peacebuilding than others (2007: 580–581).

The core problem in institutional reform, such as judicial or security sector reform, is connected to the power struggles that the reform process might exacerbate in a (post-) conflict context; the competition over political control is transformed into a competition over representation in institutions (ibid: 588). At worst, this might take society to a path following another open conflict. Moreover, this emerging tension might have defining consequences over the promotion of gender justice: underrepresentation of women or other groups within institutional reform might induce underenforcement of norms aiming at promoting women’s rights and gender justice (Ní Aoláin & Rooney 2007).

These critiques, apart from the critiques I will further address in the next chapter, are not necessarily aimed at erasing transitional justice fully from the responses that societies may opt for in a transitional moment. Rather, they aim at pinpointing the need to reconsider dominant frameworks that might be insensitive to cultural and political differences in transitional and post-colonial contexts, as we will see in next chapter. The search for more sensitive approaches to transitional justice beyond the state-centric, technocratic legalism becomes of utmost importance in fragile (post-)conflict contexts,

⁵ Sriram makes the point, that connections between transitional justice and building up liberal market economies are not as clear as in the case of liberal peacebuilding framework. Nonetheless, it has been argued that the connection is in strengthening rule of law and, therefore, prerequisites for foreign investment and business through transitional justice measures (Moyo 2012: 270). For a discussion over the relation of economic development and transitional justice, see Olsen et al. 2011.

such as Mali, where transitions address a plethora of crimes and injustices occurred for years and decades. Andrieu (2010) argues partly concurring with Nagy (2008), that in these contexts where transitional justice measures, such as Truth and Reconciliation Commissions are implemented, the emphasis on top-down state-building risks to narrow down, firstly, the conception of truth to a single narrative of the past instead of including e.g. gendered experiences to the construction of history; and second, the conception of violence to only consider political violence while excluding economic and structural violence. It, then, seems that adopting a more holistic approach to transitional justice that would also address structural violence is needed to pursue both negative and positive peace together with gender justice.

Instead of responding to communal and ethnic conflicts through seemingly neutral legalist approaches, Andrieu calls for putting civil society in the forefront in creating cross-cultural understanding of the conflict and of the responses to it, as it provides with alternative legitimacy from the ground to support the liberal project of transitional justice: "Civil society must become our focus, because without a cohesive political community, democratization and the rule of law cannot be legitimate nor claim to represent the people as a whole" (2010: 549). A case study from Somaliland gives more support for a plea to include civil society to interventions that aim at enhancing gender justice. As brought up above, the study points that state-centric initiatives aiming at enhancing women's rights through supporting institutions promoting rule of law might be counterproductive in a context where legal pluralism prevails as a defining socio-legal reality (Bendaña & Chopra 2013). The authors call for a broader inclusion of social movements and women's organizations, in particular, in fostering social change that is needed to bring about justice for women. Following these critiques of liberal peacebuilding approaches to transitional justice, I claim that in analyzing EU's approaches to support transitional (gender) justice in Mali, it is necessary to include scrutiny of the support provided for civil society and for its inclusion to transitional justice initiatives.

In sum, Normative Power Europe gives weight to inherently Eurocentric perceptions on the needs of societies in transition from conflict to peace. NPE, then again, informs the EUPF, which aims at the inclusion of localized, bottom-up approaches to peacebuilding, but ends up giving emphasis to the construction of (neo)liberal states, thus following the dominant global liberal peace- and statebuilding project (Richmond et al. 2011). Based on post-colonial critique of the NPE, the work of Richmond et al. on the EUPF, and on

the critiques of transitional justice as an instrument of bringing about liberal peace, it can be argued that the EU should strive for finding ways to support transitional processes from more localized perspectives that aim to look for endogenous forms of justice and transitions to peace. Following Nagy's (2008) argument, the endeavor of challenging the global paradigm of liberal peace is especially important in relation to delivering gender justice through transitional justice measures, the point of which I will elaborate in the next chapter.

Andrieu's (2010) notions of the implications of state-centric transitional justice, and the need to engage with civil society as a potential promoter of legitimate and lasting peace together with inclusive (gender) justice are foundational for this thesis. Together, these critiques lay the foundation for feminist critical accounts on transitional justice as a means to promote and secure human rights for women. I elaborate the question of women and gender in transitional justice in the next chapter. Before that, I briefly introduce the relevant European Union policies on support for transitional justice. The focus is on how the EU policies take into consideration the gender sensitive approach to transitional justice together with its emphasis on civil society inclusion.

2.3. European Union Policies on Support for Transitional (Gender) Justice

2.3.1. The EU Policy Framework, Gender, and Civil Society

The EU has been supporting transitional justice initiatives in post-conflict contexts already prior to 2015, but the policies aiming at promoting peace and justice were scattered around different policy alignments and policy instruments, and lacked a coherent approach or even an aligned conceptualization of transitional justice with other practitioners and actors in the field (Davis 2014). Earlier, the EU mainly considered international criminal justice and the ICC as its foremost approach to transitional justice (Ketelaars 2016: 9). The EU Policy Framework was therefore a big step forward in creating a coherent strategy that suggests a holistic approach to promote transitional justice in the broader cadre of peace- and statebuilding efforts, although it lacks any earmarked funds for implementation (Ketelaars 2016).

The EU Policy Framework defines transitional justice in reference to the *UN Secretary-General's report on the rule of law and transitional justice in conflict and post--conflict societies* as

the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecution, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof. (UN Security Council 2004.)

The definition is following a common understanding of transitional justice consisting of four elements, as pointed by International Centre for Transitional Justice (ICTJ), the most important non-governmental actor in the field: criminal prosecutions, truth-seeking, reparations, and reform/guarantees of non-recurrence (ICTJ 2020).

In addition to the definition of measures that societies redressing past human rights abuses should strive for, the EU seeks to found its policy alignment on that of the UN regarding the gender sensitive approach. In its guiding principles, the framework acknowledges the *2008 EU Comprehensive Approach to the EU implementation of the United Nations Security Council Resolution 1325 and 1820 on Women, Peace and Security, and related resolutions* as a foundation for the EU's commitment to

‘enhance the involvement of women and their access to justice, including transitional justice mechanisms’ in support of the strengthening and reform of the justice sector and to build capacity for the prosecution of crimes against girls and women and the protection of witnesses. (Council of the European Union 2015a).

The UNSCR Resolution 1325 on Women, Peace and Security was adopted in 2000, and it is the most important document informing the international community in its actions regarding women's rights enforcement during and after conflict. The 1820 resolution from 2008 condemns rape and sexual violence as potentially constituting as war crime, crime against humanity, or a constitutive act in respect of genocide.

The 2008 EU Approach to Resolution 1325 and 1820 (Council of the European Union 2008) refers to transitional justice briefly in the context of the justice sector and security reform, where “the EU will seek to enhance the involvement of women and their access to justice, including transitional justice mechanisms.” In 2018, the 2008 policy was replaced by *EU Strategic Approach to Women, Peace and Security* (Council of the European Union 2018) that uses the EU Policy Framework as a source for defining a gender-sensitive approach to supporting transitional justice initiatives aiming at ending impunity for crimes of sexual and gender-based violence.

In general, the EU Policy Framework considers that effective integration of the gender dimension into transitional justice initiatives should be grounded on the recognition of gendered impacts of conflict together with pre-existing gender inequalities, and on the

acknowledgment of “differentiated needs of women and men in relation to accessing and benefiting from transitional justice processes”. The EU puts emphasis on “increasing women’s and girls’ access to justice”; to “securing women’s and girl’s physical and psychological integrity”; and fighting to end sexual and gender-based violence.

These policy alignments regarding women’s rights and gender described above aim at mainstreaming gender in the EU’s approaches to support transitional justice processes, and in peacebuilding processes more broadly. This is a notable improvement compared to pre-2015 piecemeal approaches to transitional justice, where gender aspects were disregarded (Davis 2016). The role of women as “a key vector of change and an important actor in reconciliation and peace processes” derive from the *Strategic Framework and Action Plan on Human Rights and Democracy*, which was adopted to enhance human rights mainstreaming in EU’s external action from 2015 to 2019 (Council of the European Union 2015b). The Policy Framework on support to transitional justice was one part of the implementation of the Action Plan.

The foreword for the Action Plan, written by Federica Mogherini, the High Representative of the EU for Foreign Affairs and Security Policy, begins with laying out the challenges characterizing the changing environment where EU pursues its efforts to support democratic values and institutions globally:

The second Action Plan on Human Rights and Democracy ... comes at a critical time, a time when we are faced with complex political and humanitarian crises and with the shrinking of civil society space worldwide. These challenges demand from the EU and its Member States a redoubling of efforts and a renewal of their firm commitment to upholding human rights and supporting democratic values, in line with the Universal Declaration of Human Rights.

The EU cannot face these challenges alone and democratic transitions cannot succeed unless they are rooted in local realities. This is why the new Action Plan focuses on empowering local actors and civil society organisations. (Council of the European Union 2015b: 5.)

In accordance with the spirit of the Action Plan, the EU Policy Framework on support to transitional justice emphasizes inclusiveness, and participation of civil society, “such as NGOs, think tanks and academia” in transitional justice processes (Council of the European Union 2015a: 5). This approach is seen to contribute to enhancing local and national ownership, inclusiveness, gender-sensitiveness, and the states’ obedience in relation to international law. From the four elements of transitional justice recognized by the ICTJ (2020), the role of civil society – together with victims’ groups inclusion – is considered fundamental in carrying out truth-seeking initiatives, as well as in institutional

reform, where bottom-up initiatives building inclusive governance and local democracy are seen to complement top-down approaches. Also, the punitive dimension is seen to potentially require close cooperation with victims and civil society. The Framework does not explicitly acknowledge the need for civil society inclusion in policies related to reparations, but it does mention the role that truth commissions may have in the reparations process, which, then again, includes implicitly the idea of truth-seeking initiatives being carried out in cooperation with the civil society.

In their analysis, Rangelov et al. (2016) praise the EU Policy Framework for its gender dimension incorporation, but they do not elaborate this inclusion any further. Instead, they find a significant gap between the framing of civil society's role and the reality in which most civil society actors must work:

A bottom-up approach is implicit in multiple references to civil society dialogue and consultations through the Framework. The framing, however, is problematic as it assumes a symbiotic relationship between civil society and the state. Civil society is conceived as a partner and supporter of state actors and formal justice institutions, rather than an alternative source of support and legitimacy for justice and accountability processes in the face of prevailing resistance and backlash from state-based actors. (Rangelov et al. 2016: 15-16.)

The Framework seems therefore to perceive civil society inclusion as an instrument to support state-centric initiatives but fails to consider what also Andrieu (2010) called as providing legitimacy for democratization and rule of law.

A case study from Ghana from 2006 indicates that the EU's policies on strengthening civil society provide evidence on 'policy evaporation', where policy rhetoric stemming from Brussels does not translate into practice in Ghana. On the contrary, the assistance provided is allocated mainly to support a narrow subset of NGOs and think tanks, which resemble a neo-liberal notion of civil society as a counter-power to the state (Crawford 2006.) This has, according to Crawford, consequences regarding the democratization process implicit to the aims of civil society strengthening. These consequences include compromising pluralism among civil society actors, and favoring of certain professionalized elite NGOs, which results in weakening of legitimacy and accountability of excluded actors (ibid: 152). These results are important also in the context of transitional justice, which aims at inclusion of civil society on the policy level.

As Ketelaars (2016) points, noting a lack in the implementation of a policy does not make a policy useless. Also, Crawford's (2006) case study was conducted over a decade ago, after which the EU's conception on the relation of civil society organizations and the state

has changed, one might even argue radically, if we look at the conclusions of Rangelov et al. (2016). Although the two studies conclude very differently on the EU's perceptions on the civil society's role in democratization processes, where transitional justice plays a role in post-conflict contexts, they both point to the significance of the framing of civil society and its relation to the state in the EU's policies regarding promotion of democracy in the Global South.

2.3.2. Transitional Justice in Related EU Policies

All in all, civil society inclusion in the Framework can be considered as a part of liberal democratic institution building, and further promotion of human rights, peace, democracy, and development, i.e. the core values of Normative Power Europe, as indicated above. Transitional justice's wider connection to peace- and statebuilding efforts can be found also from EU's development policies. Transitional justice is connected to EU external action in its most important document regarding EU's development policy, the *EU's New Consensus on Development* from 2016 (Council of the European Union 2016). Article 68 of the Consensus places transitional justice as a part of EU's state- and peacebuilding policies, and acknowledges once again the four elements to be supported, namely *context-specific measures promoting truth, justice, reparation and guarantees of non-recurrence*", together with the promotion of *good governance, democracy, the rule of law, and human rights* (Council of the European Union 2016). This follows the holistic approach to transitional justice also adopted in the Framework and enables the EU to consider multiple instruments and measures in pursuing to support liberal peace- and statebuilding. In addition, the article aims at implementation of the Women, Peace and Security -agenda by acknowledging the need to "address all aspects of preventing and responding to sexual and gender-based violence in conflict and post-conflict situations", and commitment to support "women as positive agents for conflict prevention, conflict resolution, relief and recovery, and building sustainable peace".

Finally, a fairly new communication regarding an Africa-EU strategy embraces openly a neoliberal approach in pursuing core values establishing Normative Power Europe. The strategy frames the aim of enhancing democracy, human rights, gender equality, and rule of law as serving growth and investors (European Commission 2020). The strategy does not explicitly mention transitional justice, but it refers to essential components of the EU

Policy Framework on support to transitional justice, such as equal access to justice, ending impunity, and fostering reconciliation. In addition, the strategy acknowledges that the EU should strive for supporting civil society organizations, human rights defenders, and initiatives that aim at women's rights enhancement. The whole strategy is built on rhetoric of "partnerships", many of which touch upon economic growth and business environment. This suggests that implementation of the Africa-EU Strategy will, most likely, focus on other aspects rather than women's rights enforcement in fragile contexts, although rule of law and human rights might play a bigger role in advancing the neo-liberal agenda of the strategy.

In sum, the policy alignments listed above indicate that transitional justice will play an ever-growing role in the EU's external action in advancing peace and justice together with the promotion of liberal democratic principles and institutions, and development in the Global South. A reading of the EU's policies on support to transitional justice indicates that it is guided by a broader pursuit in the promotion of human rights, peace, and democratic principles and institutions. Within the broader agenda, an inclusion of civil society and women is regarded not only as a normative principle but also as an instrumental value contributing to an efficient implementation of policies supporting state-sponsored mechanisms, peace processes and democratic institution-/statebuilding, including policies on support to transitional justice.

In the next chapter I turn to introduce (post-colonial) feminist accounts of transitional justice, which together with the critiques of the liberal peacebuilding framework, establish a conceptual and theoretical framework guiding the analysis of this thesis. Feminist and post-colonial accounts of transitional justice reveal the gendered impacts of liberal and state-centered approaches to transitional justice, and thus question the paradigm around peace- and statebuilding efforts, to which also the EU has committed in its policies on support for transitional justice, as argued in this chapter. Through looking at feminist approaches to transitional justice, I argue that the gender sensitive approach that the Framework adopts might be hindered if the support policies are built around state-centric approaches.

3 GENDER AND/IN TRANSITIONAL JUSTICE, AND THE POST-COLONIAL STATE

3.1. Transitional Justice – Looking for a Definition from Theory and Practice

Transitional justice mechanisms are most commonly known as temporary judicial or non-judicial measures that may be implemented after a conflict or authoritarian rule in order to deal with systematic human rights violations and violent crimes. Transitional justice was first introduced during the post-World War II era with Nuremberg and Tokyo War Crime Trials, and later in the 1980's in Latin American and African countries that had gone through authoritarian regimes. Later, transitional justice has come to 'redress the legacies' of conflicts in different forms of measures, such as international criminal justice tribunals, truth commissions, reparations programs, and institutional reforms. (de Greiff 2012.)

Transitional justice entails a discussion on balancing between restorative and retributive justice. Restorative justice aims at rebuilding and restoring trust and relations between communities, and between the society and the state by focusing on resolving the root causes of the conflict and by offering a setting for apology and healing for victims. In short, restorative justice aims at promoting reconciliation and truth often by adopting local and/or informal customary mechanisms, such as truth and reconciliation commissions, to address wrongdoings. Retributive justice then again is connected to a Western style punitive justice, which, in the context of transitional justice, would mean pursuing justice through formal national/international justice mechanisms, such as *ad hoc* tribunals, domestic or international courts and the ICC. The question of balancing between the two refers to the simultaneous aim of achieving peace and reconciliation together with justice, a task that was long seen as an either-or choice. Current transitional processes consider both aims by adopting pluralist approaches, and locally more sensitive measures. (Lambourne 2014: 20–21.)

De Greiff's (2012) definition recognizes transitional justice measures including two mediate, and two final goals: providing recognition to victims and fostering civic trust, and contributing to reconciliation and to democratization, respectively. This definition is useful in that it points to the several temporal levels that transitional justice mechanisms must entail. Transitional context holds a promise of delivering accountability, which

expectedly is required for transitioning from the past to the present; but it also holds a promise of thorough societal change, which is to move from the present to the future. Essentially, the definition is enlightening in pointing to the paradigmatic approach of mainstream transitional justice scholars who embrace the hegemonic liberal peace- and statebuilding project embedded to transitional justice processes: the logic of rebuilding trust between people and the state means simultaneously establishing trust towards liberal democratic mechanisms (Arthur 2009).

Liberal peacebuilding approach to transitional justice might have implications in relation to the promotion of gender justice. McKay (2000: 561) defines gender justice "as legal processes which are equitable, not privileged by and for men, and which distinguish the nefarious forms of injustice women experience during and after armed conflict". Dhawan (2012: 273) considers that "gender justice in the field of transitional justice does not solely refer to the prosecution of gender-based violence against women (and men) but also to more equitable gender relations after a violent conflict or authoritarian regime." Therefore, analyzing gender justice means taking into consideration the legal realm connected to transitional justice process together with the broader socio-political processes, which establish the foundations for more equitable gender relations in transitional contexts. As a whole, this approach constitutes the concept of transitional gender justice that I adopt in this thesis to consider gendered aspects connected to the EU's support for transitional justice in Mali.

In this chapter, I aim at finding a theoretical approach that helps in uncovering and in creating an understanding of the issues affecting the promotion of transitional gender justice in fragile post-colonial contexts. I build up a theoretical and conceptual framework leaning on the work of critical and (post-colonial) feminist scholars. It is on this framework that the question concerning the EU's support for transitional (gender) justice in Mali can be approached. First, I look at the effects and tensions of the global and local perspectives on transitional justice. Second, I introduce the foundations of a critical (post-colonial) feminist approach to transitional justice, which lies in counter-hegemonic scholarly reactions to the liberal peacebuilding paradigm introduced in the context of EU policies in chapter 2. Third, I briefly go through the relevant theorization of the effects of civil society on transitional gender justice.

3.2. The Global and Local in Transitional Justice

In search for theoretical conceptualizations for transitional justice, Buckley-Zistel et al. (2014: 2–3) recognize four reasons why, despite decades of academic research and a wide-ranging field of practice, transitional justice remains undertheorized. First, due to the cross-disciplinary nature of inquiries on transitional justice, there may be difficulties in relation to engaging in a common theoretical language. Second, transitional justice is largely driven by practice that has expanded to wide-ranging forms in the hands of various actors at a quick pace, which poses a challenge for theorizing to keep up. Third, the concept has been expanding to cover realms that are to some extent obscuring the limits of transitional justice, which again is a challenge for creating firm theoretical grounds. Fourth, there is a growing body of literature calling for greater attention on local perspectives, which should be applied to the analysis of transitional justice mechanisms gaining their impetus from practice and ideas based on international and global norms. This last approach is, according to Buckley-Zistel et al., needed in providing a more thorough understanding of the “underlying assumptions of transitional justice practices”, but it also lacks a coherent aim at theory building.

Undertheorization of transitional justice poses several challenges both for research and practice in the field. As Buckley-Zistel et al. (2014:1) observe, transitional justice practice and discourse are largely based on “implicit assumptions about transition and/or justice that are often commonsensical in Western thinking”. This a-historical universalist approach to transitional justice is problematic in a post-colonial transitional context, where the empirics of this thesis are founded. Although Eurocentric origin does not intrinsically render a concept, theory, policy, or practice void, it is necessary to acknowledge the historically constructed power relations between the ‘west’ and the ‘rest’ (Dhawan 2012: 270), a dynamic inherent in and defining of externally funded transitional justice initiatives in the Global South. Recognition of Eurocentrism in transitional justice – and in the liberal peace project framing it – enables us to understand what the “transition” essentially means in transitional justice (Arthur 2009; Dhawan 2012). Critical approach is, therefore, needed to shed light on the underlying epistemological and normative assumptions defining dominant forms of transitional justice, which are increasingly funded by international actors such as the European Union.

Localized perceptions have come to play a bigger role in transitional justice scholarly work and practice, partly as a response to the dominant Western-centered thinking in

transitional justice interventions. Shaw & Waldorf (2010: 5) problematize the manner that international actors and policymakers ‘tend to conduct surveys’ to learn of local perceptions on justice, and therefore seemingly include these perceptions on the design of transitional justice mechanisms. As an example, local NGO and local elite inclusion are, according to Shaw & Waldorf, this kind of cosmetic measure trying to provide a local perspective when in reality “local experiences, needs, and priorities often remain subsumed within international legal norms and national political agendas” (2010: 5). Sharp (2018: 41) reminds us that in the paradigmatic liberal peace project, the same dilemma remains: universalist liberal normative framework is at odds against meaningful and prioritizing inclusion of the local.

Oomen (2005) provides empirical support for these critical accounts on localization of transitional justice that is challenged by technocratic international donor approaches together with local *realpolitik*. In Rwanda, an exceptionally localized approach was implemented to redress atrocities and systematic human rights violations taking place in the 1994 genocide. Locally based *gacaca* courts were loosely based on a traditional customary legal system, and largely financed and organized by international donors. Oomen claims that the unwillingness of the international community to acknowledge the deeply political nature of *gacaca* runs the risk of legitimizing power play through justice systems in contexts where transition from oppressive and often violent regimes is anything but secured: "An isolationist emphasis on law in such an environment becomes a macabre masquerade, emphasizing the culture of impunity instead of eradicating it" (2005: 907).

Oomen describes the broad interest of international actors to support transitional justice in post-genocide Rwanda deriving partly from the “judicialization of international relations”, which came to define a new emphasis in the realm of development cooperation, namely good governance, rule of law, and democracy bound together with human rights compliance. This, in turn, has caused a new shift also in funding streams, which have turned to support national justice systems in form of building courts, training personnel, and even (re-)writing laws, which are, to a great extent, operations belonging to the domain of a nation-state (2005: 888–292). Judicialization in an international context has been studied mainly from the perspective of global economy (see e.g. Alter et al. 2019), but in Africa the concept seems relevant in relation to transitional justice: after persistent criticism towards the ICC on its neo-imperial disposition, African states

have begun to seek their own regional solutions for international criminal prosecutions (Sirleaf 2017), thus acting against Euro-American imposed forms of transitional justice, but remaining within the same framework of pursuing retributive punitive justice.

Arthur and Yakinthou (2018: 7–8) summarize what kind of assistance the international community is providing for transitional justice globally. Assistance for transitional justice can be straightforward monetary support to transitional justice initiatives. Donors may vary from bilateral and multilateral donors to other private funders such as foundations. Donors may also support official transitional justice measures indirectly by financing non-state actors to support either existing transitional justice processes or e.g. to set up their own unofficial truth commission. Donors can also provide technical assistance, such as expert provisions, to countries that are initiating transitional justice measures. Another interesting but less researched area is international assistance, which is aimed at impacting the agenda setting of transitional justice. This might happen both through monetary and non-monetary efforts.

Arthur (2018) points that the reasons for international donors to fund transitional justice are multifaceted and changing according to various factors relating to ideas, interest, institutions, and information affecting donor decision-making. He concludes with three points that impact donor decision-making processes: First, transitional justice is funded if it supports the donor's broader interests especially regarding security. Second, the wide scope of processes, such as democratization, connected on an ideal causal level to transitional justice remains fragmented and thin on an institutional level. Third, a legal-institutional approach with an emphasis on trials as a transitional justice measure has remained dominant also in terms of the amount of funding. Arthur argues that in a result transitional justice is not always supported the most relevant way, as donors tend to prefer to fund initiatives producing something concrete, such as a commission producing a final report, or – as the results show is also in the case of the EU – building courthouses. Arthur claims that

[donors] may resist supporting the more politically risky, long-term, and difficult-to-measure social change work that is actually at the core of meaningful TJ initiatives” Highly bureaucratized processes, such as the EU's, exacerbate risk-averse decisions and a “technical” rather than “political” approach. Additionally, TJ advocates must find a way to fit TJ work into the relevant donor paradigms – to find the right pot of money – and this means adapting it to current discourses on “fragile states”, the “security-development nexus”, and so forth (2018: 240.)

These conclusions suggest that “localizing transitional justice” in the case of initiatives funded by the EU might be hindered by the unwillingness of the EU to touch upon transitional justice processes aiming at social change, if the processes are politicized.

In sum, donor interest and emphasis on criminal justice and “technical” approaches to transitional justice, which look at measurable outcomes rather than the political process may prevent the localization of transitional justice. Moreover, localized approaches to transitional justice often fail to overcome hegemonic donor-imposed liberal approach. When it comes to customary justice approaches, there is broad body of literature that contests the opportunities of localized customary forms of transitional justice to deliver gender justice, as they might also lack of gendered approaches in fragile contexts (Graybill 2012; Hellsten 2012; Ross, 2010; McKay 2000; Wells 2004;).

In order to establish a solid theoretical and conceptual ground for the endeavor of this thesis, namely for the critique of EU actions in relation to supporting transitional gender justice in Mali, I now turn to discuss critical feminist approaches to transitional justice.

3.3. Transitional Justice, Critical (Post-Colonial) Feminist Approaches, and the Post-Colonial State

The critical approach that this thesis adopts aims at discussing the assumptions implicit in dominant approaches to transitional justice. This critical approach is motivated by a deeply normative stand rooted in feminist scholars’ work asking: “where are women, where is gender, where is feminism in transitional justice?” (Bell & O’Rourke 2007: 23.) It is, I argue, in this critical feminist school of thought in the field of transitional justice where the foundations for promotion of transitional gender justice in a post-colonial context can be found. As there is no established body of literature that could be referred as (post-colonial) feminist theory of transitional justice, this study is a contribution to discussions on feminist approaches to study transitional justice, and the support that the European Union provides for enhancing transitional (gender) justice in Sub-Saharan Africa.

Feminist contributions in the field have aimed at analyzing the gendered assumptions in and impacts of transitional justice. A core question evolving from the feminist perspective on transitional justice is what kind of transformation – societal, political, or judicial – transitional justice has to offer for women? What kind of “theory of change” does gender

justice constitute of? What kind of approaches transitional justice field and practice need to adopt in order to provide outcomes and reforms for the benefit of women?

Feminist scholars have called for an effectual engagement into feminist struggles to secure material gains for women through transitional justice mechanisms (Bell & O'Rourke 2007). There is a growing body of literature on critical (post-colonial) feminist accounts on transitional justice, which has aimed above all at questioning the 'add women and stir' approach, and advocate for a more holistic approach to promote gender justice (Buckley-Zistel et al. 2014: 7). This body of literature takes its impetus from feminist theorizing of international law, which started in the late 1980's from the seminal work of MacKinnon who pointed to the male bias inherent in the legal and state structures that inform the theory and practice of international law. The neutrality of international law⁶ and, therefore, human rights, was questioned:

Male reality has become human rights principle.... [W]hen men use their liberties socially to deprive women of theirs, it does not look like a human rights violation. When men are deprived of theirs by governments, it does. (MacKinnon 2006 as cited in Alvarez 2010: 26.)

Socio-legal scholarly work has aimed at pointing to the biases that dominant legalistic approaches to transitional justice enfold in relation to delivering gender justice through international human rights framework, the International Criminal Court, and peace-negotiations (Reilly 2007). This analysis is key to feminist critique over narrow legalist approaches to transitional justice: to be a transformational force in a (post-)conflict context, transitional justice must address "the 'extraordinary' violations experienced by women during genocide, war and other mass violence and the 'ordinary' violations experienced by women during so-called peacetime" (Lambourne & Carreon 2016). Thus, in seeking lasting peace and justice, feminists highlight that transitional justice policy and practice need to address the mundane violence and harm that women suffer due to patriarchal structures and aim at a holistic approach to changing relationships and power (Ní Aoláin 2012). In other words, feminist accounts on transitional justice contribute to a long-standing endeavor of feminists aiming at bringing forth the private-public divide, and the implied socio-political consequences for gender-relations.

⁶ Martti Koskenniemi has written extensively on the political project embedded to international law. In *From Apology to Utopia* (2006, original doctoral thesis published in 1989) Koskenniemi argues how international law is in many ways a contribution to a continuum of legitimization of use of hegemonic power (see also Koskenniemi 1990). His seminal work touches also upon human rights discourse but does this resting mainly on legal argumentation, therefore staying only as a footnote in this thesis and leaving more room for feminist considerations in the theoretical framework of this thesis.

Feminist scholars have also criticized legalistic approaches by pinpointing norm enforcement in transitional times. Intersectional analysis has proved how the representation of women in negotiations over institutional reform may be decisive in relation to the level of implementation of (legal) norms in transitional times:

One key element of a differential impact on women is the tendency of underenforcement to be manifested as the failure of a reform process mandated in transitional negotiations to be translated into legally binding obligations. This gap between ‘soft’ and ‘hard’ law has a distinct influence on the experience of women in transitional societies. (Ní Aoláin & Rooney 2007: 344.)

This critique points to the need to look at the level of implementation rather than commitments – or rather practice than policy – because adoption of law does not mean inevitable enforcement especially in a fragile context, where it is challenging to hold the state accountable. This is especially important in a transitional moment, where the state can often be both the antagonist and the protagonist: transitional justice process addresses state oppression while it might facilitate new forms of oppression by e.g. creating or re-enforcing marginality. Therefore, the second point that critical and feminist scholars highlight is that in order to deliver both justice and lasting peace, transitional justice process should address structural factors such as economic inequality and social marginalization contributing to the root causes of the conflict (Lambourne & Carreon 2016; Sharp 2018: 137–154).

Thus, a narrow legalistic approach especially risks undermining gender justice when leaving structural violence in the background (Nagy 2008). Addressing structural violence, and questioning the hierarchy of economic, social and cultural rights and civil and political rights, are largely connected to the broader quest of feminist theorizing committed “to recalibrate power relationships, drawing from the singular insight that transformation depends on the redistribution of formal and informal power” (Ní Aoláin 2019: 151–152). As the four elements of transitional justice (criminal prosecutions, truth-seeking, reparations, and reform/guarantees of non-recurrence) indicate, the international consensus over the goals of transitional justice is to address violence and secure non-recurrence by supporting reconciliation, establishing truth and providing victims with redress. Feminist approaches argue that transitional justice process is deemed to failure from the point of view of gender justice if the broader social and political context is left unheeded:

[N]either the effects nor the causes of gendered violence and injustice can be addressed outside of patriarchal social and political structures that continue to locate women in secondary positions. Technocratic interventions that don’t account for power relations –

who is ‘weak’ and who is strong – are unlikely to respond to the justice demands of the least powerful. (Fiske & Shackel 2018: 3.)

Where transitional justice interventions might fail in relation to gender justice, then, is in unquestioning gendered power relations in the society more broadly. Ní Aoláin sets the bar high in picturing the prospects for gendered impacts of transitional justice when she claims that:

without a commitment to a reordering of the gendered status quo, a deep commitment to undoing patriarchal power, and without unravelling relationships that entrench patriarchal advantage, the benefits of transitional and transformative justice for women will always be muted (2019: 151).

The critique of narrow legalist approaches includes a notion now widely recognized within feminist accounts on transitional justice, that violence against women is often narrowed down to consider only sexual violence resulting in an establishment of an obsessive link between women, sexuality, and conflict (Ní Aoláin & Turner 2007: 261–262). The recognition of gendered harms consisting of a plethora of economic, social, and political structures and phenomena are advocated by feminist analysis to be addressed within transitional justice processes (Ní Aoláin 2012: 223). Advocating a closer scrutiny of female inclusion to bottom-up approaches to transitional justice, O’Rourke (2008) notes that:

feminist analysis of transitional justice mechanisms should therefore consider the extent to which these mechanisms facilitate open and inclusive contestation concerning the types of harm and violence to be ended by transition creating space for dissenting voices and otherwise marginalized actors (2008: 290).

In addition to calling for the recognition of gendered harm, the point made here is that when transitional justice mechanisms enable not only the voices of women to be uttered but also to be *heard*, transitional justice may – according to O’Rourke – provide with a chance to alter both intra- and inter-communal relations to more inclusive and tolerant, and thus, peaceful (2008: 287–288).

Post-colonial analysis has pointed how concentrating on violence against women in legal feminist politics risks to essentialize Third World women only as passive victims and leaves little room for agency and choice in forming more ‘transformative and inclusive politics’ (Kapur 2002: 37). As pointed in the introduction, post-colonial feminists have long argued that one part of this kind of victimization is a continuum of silencing of the women in the Global South. This is the main reason why I have aimed at including as many female voices as possible to the analysis: gender inequality and violence against

women is a prevailing reality in many parts of Sub-Saharan Africa, but global inequality and structural violence prevails in the narrative that depicts women in the Global South as powerless.

Post-colonial theory is important to the theoretical framework of this thesis also because it guides to question the a-historical universalist approach to support transitional justice established within the liberal peacebuilding framework. It informs us to turn our gaze towards the colonality of state structures and relations between actors supporting transitional justice in post-colonial contexts. Feminist and post-colonial analysis of transitional justice has underlined how mainstream scholarship on transitional justice considers the state as the core agent and structure in delivering gender justice in transitional contexts (Scully 2009; Andrieu 2010; Moyo 2012). In focusing on law and government as means to redress for women, transitional justice processes tend to dismiss fully the illegitimacy, and exploitative nature of the post-colonial state. These refined observations of feminist scholars become of importance when considering the EU's support to transitional justice processes, and its applicability in relation to delivering gender justice in Sub-Saharan African context.

Scully (2009: 30) calls for a “truly historical gendered consciousness” in providing a more comprehensive understanding of opportunities for securing women's rights through transitional justice mechanisms in Sub-Saharan Africa. She claims that both practice and research around transitional justice have failed to question the centrality of state structures in transitional justice mechanisms in an African context, where the state is characterized as consisting of “patterns of looting and extraction very far from a nurturing welfare state” (ibid.). The point that Scully makes is to look at colonial legacy in creating these characteristics in Sub-Saharan Africa: the benevolence of the state cannot be assumed as the mode of (mal)governance has looked for its models from repressive colonial times.

As indicated before, support for transitional justice processes is often linked to the aim of liberal statebuilding, while fostering justice, peace and (international) security. Therefore, questions on post-colonial state become of importance: When the state is anything but benevolent, and oftentimes entirely absent, what role does justice, peace, and security play in transitional justice processes that have a strong link to state structures? If international donors, such as the European Union, provide support for state-centered transitional justice initiatives, could it be argued that they are actually consolidating colonially imposed state structures instead of reforming the state?

The aims of a transitional justice intervention are infused by an internal contradiction: the model for a future of a nation-state in transition is deriving from the West, while the institutional and political structures that should constitute the transformation are rooted in colonial history and largely depended on former colonial master states' aid. The ideals of transitional justice principle and practice end up to an impasse when the legitimacy of transitional justice initiatives becomes compromised (Moyo 2012).

Already in *Wretched of the Earth*, Fanon (1967) declared that a true decolonization and liberation from the European penetration of the mind and body of 'the native' are depended on building the Third World nation-states on their own particular values, methods, and social structures:

So, comrades, let us not pay tribute to Europe by creating states, institutions, and societies, which draw their inspiration from her. Humanity is waiting for something from us other than such an imitation, which would be almost an obscene caricature. (Fanon 1967: 314.)

The domination of interventions aiming at building Western style liberal democracies around the global South evidently marks Fanon's call for action failed. The liberal peace project and transitional justice have been harnessed to proceed with the imitation game to build Western style nation-states. When an African state is classified as "weak" or "failed", the comparison is looked for from the West, possibly from the earlier colonizer master. The classification is found on a weak or failed analysis of the historical trajectories founding an African illegitimate state; thus, the post-colonial state can only fail.

When we observe the countless ways in which transitional justice initiatives may fail in African countries, the analysis is conducted with just a passing note on the colonial heritage (see Bosire 2006). *Failure* has come to define the practice of transitional justice to the extent that a justification for the concept has been sought from the role that transitional justice could take in the "progressive realization" of Galtungian positive peace, the journey of which would include the "earnest and good faith efforts — by citizens, civil society and government" (Sharp 2018: 139–140). Although this approach aims at giving emphasis on the role that transitional justice may still uphold in supporting holistic social and political transformation outside the liberal peacebuilding paradigm, it lacks any consideration for reasons why the government might fail in carrying out its 'earnest and good faith efforts' in a post-colonial context.

Post-colonial feminists have argued that the failure to address and eliminate structures and practices deriving from colonial times has been especially harmful for women. Mama (1997) has traced the root causes for violence against women happening in post-colonial African states to imperial times, which subjected African countries collectively to European chauvinism deriving from bourgeois Victorian ideology. This resulted in the exclusion of women from all political and administrative positions of the colonial state as well as from any economic action that was mainly connected to agriculture and slavery, thus forcing most women home. Domestication of women, then again, subjected women not only under the all-male European administrative systems but also to the patriarchal system of the household. Profound changes in social, political, and economic relations occurred in Africa with differentiating impacts around the continent depending on preexisting gender relations, and social and political systems. Mama's analysis is important in recognizing the roots of violent and abusive behavior, which transitional justice aims at addressing when violence becomes widespread and systematic:

[T]he power to coerce, intimidate, and harass that is wielded by officials and men in uniform in dictatorial societies is a condition for the widespread rape and abuse of women that occur under repressive regimes, since this power is sanctioned by military, religious, or other male-dominated authorities. (Mama 1997: 53.)

In terms of transitional justice practice, it could be then argued that actions such as support for security sector reform (SSR), and e.g. training of authorities about gender-sensitiveness and violence against women is, in fact, providing corrections over the legacies of the colonial past. I will come back to this point in the discussion chapter.

Scully (2009: 38) claims that actors in the field of transitional justice should look for opportunities to promote societal transformation amongst women's collective action and extra-state political organizing, as it "has proved to be a much more effective setting for addressing women's rights than the state". This thought guides much of the empirical part of this thesis, which aims at a critical scrutiny of the European Union's approach to support transitional justice and women's rights in Mali. It also suggests a scrutiny of civil society as a source for alternative legitimacy for transitional processes and reforms, as Andrieu (2010: 549) has argued. I will now turn to address briefly literature that has analyzed the role of civil society in relation to transitional (gender) justice.

3.4. Civil Society and Transitional (Gender) Justice

In a fragile context, civil society may include both actors that aim at improving peoples' lives or groups that seek to dominate by violence. For the purposes of this thesis,

following Posner's (2003: 237) account on civil society's role in a failed state context, civil society is best defined as actors that "might play a useful role in strengthening government institutions and improving peoples' living conditions in failed states" rather than actors that aim at "destroying the state of profiting from its weakness". As such, civil society holds an especially important role in substituting state services, which are – in the case of failing states – often absent. According to Posner, in such contexts the ideal of civil society as a "watch-dog" of the state by conducting advocacy work becomes irrelevant, as institutions are too weak to deliver demands.

Within transitional justice processes, the role of civil society as a "watch-dog" remains debatable. In proposing a starting point for an analysis of the dynamics of civil society engagement in transitional justice processes, Hovil & Okello (2011) address the question regarding the extent to which civil society promotes the demands of the groups it claims to represent. They note that even as civil society is, by definition, separate from the state, its actions are mainly informed by responses to state behavior (2011: 336). Therefore, Hovil & Okello call for scrutiny of CSO activity, inclusiveness, and agendas in the context of transitional justice processes. They point to the varying normative standpoints that CSOs might have, especially in post-conflict contexts, where concepts such as 'truth' and 'justice' are continuously reframed through contested narratives that also lead to contested priorities of transitional justice mechanisms (ibid: 337–338). Following this point, O'Rourke's (2008) notion cited above on the need to address inclusiveness in bottom-up approaches becomes of importance: gender justice is another dissenting narrative that needs its proponents in the formation of the agenda and objectives of transitional justice processes.

Gready and Robins (2017: 970) call for rethinking the relationship between civil society and transitional justice by considering social movements and new forms of organizing as a source of "radical pluralism in which the discourse of human rights is placed alongside other significant progressive frameworks in both defining and advancing justice". This approach is aimed at challenging a focus on state-centered initiatives and the established connections between NGOs and transitional justice mechanisms. Instead, they call for a scrutiny of articulations of rights, justice, and politics in the Global South originating from a long history of democratization movements that challenge 'narrow elite-led processes': "As such, they have the potential to provide a locally informed, broad-based

and more democratic justice in transition, as an alternative to the institutional and often remote processes that have come to define contemporary transitional justice” (2017: 965).

This analytical framework puts emphasis on the social and political transformations that transitional justice processes could facilitate, and as such it presents an opportunity to consider gender justice as one “progressive framework in both defining and advancing justice”. But it fails to give any attention to the role that CSOs and the “old civil society” might have in relation to transitional gender justice. I have brought up above, that feminists have pointed to putting civil society to the forefront of transitional justice initiatives in order to question a one-size-fits-all approach where Western liberalism plays a constitutive role. If we consider Posner’s notion on the limits that a fragile and failed state context set for civil society’s ability to function, it may hinder the advocacy work of CSOs in relation to transitional justice processes. Thus, in such a context it may well be that the ‘old civil society’ has a strong role in advancing gender justice. I will present evidence for this later in the results chapter.

Until now, I have aimed at providing a conceptual and theoretical framework with which to critically approach the EU’s support for transitional (gender) justice in Mali. I have pointed to scholarly work that argues that the EU’s approach for supporting transitional justice follows the liberal peacebuilding paradigm. Critical feminist accounts on transitional justice have revealed the negligence in mainstream approaches to transitional justice in relation to women’s rights and gendered impacts of transitional justice processes. Post-colonial studies, then again, guide us to question the a-historical universalist approach and turn our gaze towards the colonality of state structures and relations between actors supporting transitional justice in post-colonial contexts. As there is no established body of literature that could be referred as (post-colonial) feminist theory of transitional justice, this study is a contribution to discussions on feminist approaches to study transitional justice, and the support that the European Union is giving to transitional justice in Sub-Saharan Africa.

In order to provide with a meaningful transformation for women through transitional justice, Ní Aoláin calls for “subjecting every practice, mechanism, and reform activity to intense gender analysis, viewing every single practice (and the change that is sought around it) as gendered activity” (2019: 153–154). With some limitations – resources

being one of those – I set out on a path to provide my modest contribution to the mission Ní Aoláin sets for scholars and actors in the field of transitional justice. Before presenting the case of Mali, I introduce the research methodology used in the collection and analysis of data.

4 RESEARCH METHODOLOGY

In this chapter, the research methodology is introduced. The data retrieved from interviews was analyzed by means of qualitative thematic analysis. As mentioned in the introduction, I used elite interviews, which “rely on the expertise, experience and appraisal of informants” (Mageza-Barthel 2016, 151). The interviewees were made with a guarantee of anonymity. In order to complement interview data collected in Bamako, I have used reports written by international civil society actors working on transitional justice in Mali. In addition, questions on EU support to transitional justice in Mali are analyzed using both interview data, as well as relevant official policy papers that are analyzed by using document analysis (Bowen 2009) as a method. Before introducing the methods more closely, I present the sampling method and the interviewees.

4.1. Sampling Interviewees During Fieldwork

In order to collect rich data to answer my research questions while avoiding portraying Malian women only as victims, the initial purpose of sampling interviewees was to aim at a highest possible representation of female civil society actors. In the end, out of 12 interviewees working for Malian civil society, seven were women. Using a snowballing sampling approach, I relied on the interviewees to provide me with contacts that have both *contextual* and *experiential* knowledge (Meuser & Nagel 2005, cited in Mageza-Barthel 2016: 151) about transitional justice process, women’s rights, and the EU’s support for these processes in Mali. The sampling process was deliberate in the sense that in order to access people belonging to the *élite*, using contacts with whom I had built trust during the interview seemed the most convenient way to proceed. At the same time, the sampling process was much dictated by lack of time and resources, which forced me to take advantage of nearly every interview possibility that came my way. This approach, together with a carefully constructed interview guide, would contribute to gathering as rich and thick data (Fisch & Ness 2015) as possible.

Soon it became clear that the actors working around transitional justice are very close to each other, even in concrete terms, as offices of CSOs tended to be scattered only around a couple of city quarters. After reaching out to several potential interviewees, it was possible to start selecting and targeting connections that would make my sample more diverse in terms of their institutional background. One specific moment improved the selection of my interviewees significantly. After an interview with a president of an

important women's organization, I told the president about the weaknesses of my sample, which included a lack of actors from outside Bamako. The president happened to know that there was a training workshop on transitional justice that weekend in Bamako. The workshop was organized by a distinguished international CSO, and many actors all the way from northern parts of Mali were attending the workshop. Finally, the president managed to organize three interviews with CSO actors from Timbuktu, Gao, and Tessalit.

The interviewees were also gatekeepers who, most likely, wanted to point out the best experts on the subject. This helped me with reaching the elite with profound knowledge on the subject, but it also meant that a bigger portion of the interviewees ended up being male than planned. As I used snowballing sampling strategy for the most part, I cannot make thorough conclusions about the civil society sector or the expertise on transitional justice and women's rights being male/female dominant. Nonetheless, it could be argued affirmatively that as the sample consists of both men and women, it suggests that questions around transitional gender justice are not left fully to the hands of women in Mali.

The following table lists the interviewees selected for the analysis. The first column indicates the reference code for the interviewee, which is used in the following chapters. Title of the interviewee refers to the position of the interviewee in his/her organization, representative meaning anything from the main secretary with an experience of ten years to a fresh employee of the organization. Institutional background gives a rough indicator of the organization's field of expertise.

Table 1. Interviewees

Reference Code for Interviewee	Title of the Interviewee	Institutional background	Male/Female
CSO Gao	Representative	CSO / Women's rights	Male
CSO Tessalit	Representative	CSO / Women's rights	Male
CSO Timbuktu	Representative	CSO / Women's rights	Female
CSO Bamako 1	Representative	CSO / Support of victims	Male
CSO Bamako 2	President	CSO / Women's environmental/ economic rights	Female
CSO Bamako 3	Representative	CSO / Women's rights	Female
CSO Bamako 4	Representative	CSO / Human Rights	Male
CSO Bamako 5	Representative	CSO and Research Institute / Human Rights and Peace	Female
CSO Bamako 6	Representative	CSO / Women's Rights	Female
CSO Bamako 7	Representative	Technical Assistance Program /Transitional Justice	Male
CSO Bamako 8	President	CSO / Women's rights	Female
CVJR	Commissioner	CVJR	Female

As I will point out in the results chapter, women's access to justice is often limited in Mali because of lack of assets. Thus, many of the organizations that I found working on (transitional) gender justice were organizations and associations that were giving judicial or financial aid for women in deprived and precarious situations. Some actors were pointed to me because they had been working on women's and human rights and/or with the Commission.

In addition to civil society and CVJR actors, I interviewed members of staff of the Delegation of the European Union to Mali. Reaching out members of staff in the Delegation was done by using contacts in Finland, who helped by putting me in contact with officials working in Mali. First, while planning the research in spring 2019, I

contacted an EEAS official, who had been working in Mali in 2013–2016, and interviewed him via phone. Finally, I managed to agree on a focus group meeting with current members of staff of the Delegation, who all had relevant knowledge in relation to my study. Later on, I supplemented the interview done in Bamako by sending open-ended interview questions to a human rights and gender trainer working in the EUCAP program.

The EU informants consisted of:

- Four members of staff of the EU Delegation interviewed in Bamako January 2020 in a focus group meeting
- One EEAS official who had worked in Mali from 2013 until 2016, interviewed via phone in spring 2019
- One representative of the EUCAP operation, interviewed via email in March 2020.

4.2. Data Collection and Analysis

Mali is a vast country, with grave security issues outside Bamako, which was the main reason for staying only in Bamako for conducting the interviews. My initial plan was to stay two weeks in Bamako, but due to unfortunate problems with flights, my stay shortened only to eight days in January/February 2020.

I had contacted both the EU delegation, and several Malian women's organizations in advance, which resulted in three prearranged interviews. Focus group meeting with the EU Delegation was agreed to have in total three members of staff, who would have substance knowledge on my topic. Finally, there were in total four members of staff answering my questions, two of whom I had not received information in advance. I had sent the interview guide in advance, but none of the interviewees had looked through the questions before the interview. I had requested permission to record the interview with an assurance of anonymity, but my request was denied at place. These surprising factors caused some trouble regarding the data, as many of my questions were directed to a person that had cancelled their attendance to the interview, and because coding of my notes instead of a transcription was challenging. To complement these flaws in the data, I sent a set of questions to the staff member missing from the meeting, but never received an answer. Luckily, I managed to supplement the interview data by online databases on EU funded projects in Mali together with an email interview of a human rights and gender trainer working in EUCAP mission.

I used semi-structured, open-ended interviews, or *thematic interviews* in Hirsjärvi & Hurme's (2009) terms. I used a predefined set of questions, the order and specific form of which I decided according to the interviewee. In search for both *contextual* and *experiential* knowledge (Meuser & Nagel 2005, cited in Mageza-Barthel 2016, 151) about transitional justice process, promotion of women's rights, and the EU's support for these processes in Mali, I aimed at asking questions that were relevant to the institutional background of the interviewee. Simultaneously, I aimed at asking recurring questions on women's rights enforcement, CVJR, and the transitional justice process in general to create an understanding of the connections between transitional justice and gender justice in Mali. In order to find out the scope of European Union support for Malian civil society, I asked all the actors whether the EU had supported them, and how. This was especially useful, as it was clear that I was talking to several actors and organizations that have an essential role in the transitional justice process and the work of CVJR. Therefore, it was important to know whether and to what extent these CSOs had received support from the EU.

The interview guide used with the EU Delegation consisted of questions on the EU's presence in Mali in relation to its strategies to support transitional justice, and their support on civil society actors. The data on the EU's actions on transitional (gender) justice in Mali is not as rich as hoped for. Nonetheless, much of the interview data could be supplemented with data found online and in official documents using document analysis (Bowen 2009). In addition, the interviewed civil society actors, and the Commissioner could give their point of view on the EU's support for actions related to CVJR, transitional justice process, and gender justice in Mali. Finally, the email interview with the EUCAP mission human rights and gender trainer provided me with rich data on the EU's actions relating to Malian security sector reform. Thus, I have been able to use multiple sources to form an understanding of the EU's support for transitional (gender) justice in Mali.

The analysis was made with the help of thematic coding. I took special attention with regards to repeating topics, with an emphasis on "the number of individuals independently expressing the same idea [which] is a better indicator of thematic importance than the absolute number of times a theme is expressed and coded" (Guest et al. 2006, 72). The thematic analysis is supported with data provided in reports conducted for JUPREC (*Justice, prévention et réconciliation pour les femmes, mineurs et autres*

personnes affectées par la crise au Mali), a project led from 2015 until 2020 by the Canadian Advocates without borders (ASFC). A scheduled interview with JUPREC in Bamako was unfortunately cancelled, but as JUPREC is not EU funded, the use of reports in the analysis fits the aims of this thesis well. Also, a report on customary justice systems in Mali by Goff et al. (2017) is used in the analysis.

5 THE CASE OF MALI

In March 2020, the European Commission published a joint communication on the newly formed Strategy with Africa. The strategy is built on a rhetoric of “partnerships” that are created around different topics from green economy to migration. The context related to the partnership for peace and governance acknowledges several complex problems connected to African societies:

Instability in Africa is no longer defined by inter-state conflict but by restricted state control over territories and maritime domains, social cohesion, home-grown extremism, intercommunity conflicts, proliferation of armed groups, terrorism and transnational crime, including cybercrime. Climate change, increased competition for natural resources, environmental challenges, lack of basic social services, pandemics, and other health threats are additional sources of instability. Governments face the challenge of delivering on the political and economic expectations of a growing youth population including on human rights whose neglect are exacerbating latent community tensions. (European Commission 2020.)

Of all these aspects that the Commission acknowledges as challenges needed to be considered in policies regarding peace and security, nearly each and every one touches upon the crises in Mali. Since the coup d'état and outbreak of an internal crisis in 2012, the country has encountered widespread security problems. For the past ten years, Fragile State Index has ranked Mali as getting worse by the year (The Fund for Peace 2019), in that way getting ever closer to the infamous title of a Failed State. Indeed, most of the interviewees underlined the tangible non-existence of the state in many places, especially in the northern parts of Mali. As an example, an interviewee based in Tessalit stated that *“the state has been absent since 2012, so whatever happens, it happens with the rebel groups”*.

Although the situation has worsened in many parts since 2012, the causes for a failing state in Mali should be looked for further from the past than from the current crises together with the rising of rebel and armed groups in the northern parts of the country. Colonial history followed by consolidation of corrupt and clientelist political culture, and structural inequalities exacerbated by structural adjustment policies have contributed to the instability of the Malian state. In this chapter, I introduce the context of this case study by going briefly through the main events, root causes, and effects of the current crises that have caused the collapse of the state in many parts of the country. In addition, I explain the main components of the current transitional justice process in Mali, with a focus on the Commission of Truth, Justice, and Reconciliation (CVJR).

5.1. Malian Crisis and the Failing Post-colonial State

Tracing the causes and effects of the current crisis in Mali, Poulton et al. (2016) interviews a Tuareg refugee and former Malian minister, Mme Oualett Halatine, living in Mauritania in exile after her house had been burned and her life had been threatened. In a direct quote, it becomes clear in what sense she considers that the state has failed in Mali:

The problem here [in North Mali] is that the State has failed, over and over again, to integrate all the people of Mali into the State. It is not the people who have failed: they have been used and manipulated by the State.“ (Poulton et al. 2016: 179–180.)

After her house had been burned, she tells that even though the offenders were known, “not one single Malian judge or lawyer came forward to defend me and demand justice”. The case of Mme Oualett Halatine points to a central issue connected to the failing of state in some parts in Mali: seeking justice becomes, to some, impossible. In the Northern parts of Mali, where the ethnic divides have aggravated the insecurity of many, such as the Tuareg and Arab population in addition to civil society and human rights actors, justice is extremely hard to seek when you belong to these marginalized groups.

The reasons for a failing state, and thus to the failure of delivering justice through national justice systems, should be analyzed from a historical perspective taking the legacy of colonialism in the modern-day governance into account. Mali was a French colony until 1960. For the first time in this region, the former colonial power granted independence without any conflictual struggle or war. The Federation of Mali was built on an area known then as French Sudan, and finally transformed into the Republic of Mali, on September 22, 1960. As in most of Sub-Saharan Africa, the road to independence was inflicted by power struggles especially amongst political figures for and against a French Union. This tension resulted in several rebellions and political conflicts, and finally led to a dictatorship of General Moussa Traoré. The turn towards democracy happened only in the early years of the 1990's, and the first elections were held in 1992.

The democratic development in the 1990's was hampered by harmful practices connected to clientelism and corruption, which were preventing democratic values, such as consensual decision-making, public spirit, and rule of law from being rooted as a basis of electoral democracy in Mali (Lange 1999). These structural hindrances to democratic development were, according to Lange, mainly due to donor-imposed demands on economic liberalization, privatization, and limiting the role of the state in social and economic spheres (1999: 132). Ndongo (2015) refers to similar trajectories in the context

of Senegal by addressing ‘denationalisation’ (*desétatisation*), and notes that the World Bank has been in the forefront to promote institutional policies that render the state as an inferior actor in Sub-Saharan Africa. Mali, as most of the countries in the global south from the 1980’s onwards, was subjugated to policies aiming at ‘rolling back the state’, a mantra following the neo-liberal Washington Consensus policies, and the structural adjustment programs (SAPs) advocated and implemented by international financial institutions such as the World Bank. For Mali, the 1980’s SAPs meant selling off state property to military elite, along with accelerating the consolidation of corrupt and clientelist political culture to the national democratic systems and electoral processes (Poulton et al. 2016: 187–188; Lange 1999). Also, the SAPs caused massive poverty. As an example, an interviewee tells that the CSO she heads has helped a lot of teachers who had ended up severely impoverished due to privatization of educational sector, which led them on early pension and trying out investing but finally staying empty handed.

Historical trajectories regarding the foundations of political culture in Mali are important to understand in order to grasp the reasons for the on-going conflict today. The impacts of SAPs and liberalization policies together with reinforcing corrupt mode of governance are much to do with Mali’s profoundly structural problems, such as major inequalities between the rural and urban areas, between ethnic groups, as well as between women and men. These inequalities are largely feeding the crisis, as Pelckmans note:

This is not an ideological war between secular democracy and radical Islam, or a struggle between ethnic groups. Rather it is the struggle of marginalized subgroups to secure their livelihoods and access to resources. (2015: 44)

Poulton et al. (2016) are pointing to donor ignorance in relation to persisting poverty and underdevelopment of much of rural Mali, which, according to them, is fueling radicalization:

China’s offerings are more visible, but the biggest Western donors to Mali (France, Netherlands, USA, EU) give tiny amounts – about enough money to build one minor bridge per year, for a country with nothing. The trickle of money feeds the Bamako bureaucracy, but it does little to encourage the wider population to believe in the future of Mali. —If Western donors made coherent, long-term investments in democracy and decentralization and education, Mali’s citizens might challenge ideologies vehiculated by subsidized jihadist preachers. As it is, capitalist donors fund one-year and three-year projects that have almost no impact: their embassies are programmed to seek out market opportunities for their goods, not to build African peace and security. (Poulton et al. 2016: 188–189.)

The population of Mali has indeed shown ever more distrust towards the Western powers, even in Bamako, where there have been demonstrations and collective gatherings against French and UN military presence (RFI 2020).

Since the democratization process began in 1992, Mali has struggled with internal tensions regarding people's perceptions on the state's power versus individual freedom, which derives strongly from the times of the authoritarian regime. Lange notes in her analysis from 1999, that

many Malians find it difficult to accept the fact that a democratic government must have a certain authority and binding means allowing it to apply its program (tax system, administration, police, justice...) —. It is the conception of democratic power that remains to be built. (Lange 1999: 129–130).

The distrust and malcontent on the government has continued after the coup of 2012, and many interviewees pointed that a major part of the population does not show any trust towards the authorities.

The current crisis began with a coup on 22 March 2012, following with a political turmoil and a power vacuum in Bamako, resulting in Tuareg forces and Jihadist movements to take control in the Northern parts. Many of the fighters belonging to the Tuareg armed groups fought for Gadhafi in Libya, after which they returned to Mali, where the government failed to disarm the heavily armed fighters hoping they would fight Al Qaeda in the north. After the groups had taken over a major part of Mali, an international military intervention was carried out with the leadership of French government. (Pelckmans 2015: 43–45). The international military presence prevails under the auspices of the United Nations Integrated Multidimensional Stabilization Mission in Mali (MINUSMA), ECOWAS and African Union forces, and the EU's military and security forces training mission EUCAP Sahel Mali and EUTM Mali (Djiré et al. 2017).

Both the lack of security provisions provided by the state and lack of popular understanding of the state as having a control over the security and justice institutions has led to a security puzzle consisting of multiple armed groups in the central and northern parts of the country. Also, Malian society has a long history of exclusionary practices especially in relation to people belonging to former slave and nomadic groups, which has exacerbated socio-economic divisions between and within communities. This has resulted in creation of “self-defense militias” and some joining Jihadist movements. (Pelckmans 2015.) This do-it-yourself security sector has meant a steady slide to an open conflict between different ethnic and armed groups. As Pelckmans (2015: 46) puts it, “processes of marginalization, erosion of social cohesion and intra-ethnic divisions resulted in a deep fragmentation of security provision.” Djiré et al. (2017) adds to the analysis by emphasizing structural issues contributing to insecurity and, therefore, informing the

politics of international interventions in Mali, which consist of actions aiming at security sector reform (SSR):

“The main security issues (terrorism, rebellions, trafficking) have their roots in the state of political, social, economic and cultural underdevelopment which weakens state institutions and increases the vulnerability of populations” (2017: 22).

These notions suggest that while the ‘international community’s’ reactions to the Malian crisis are concentrated on SSR and the broader stabilization and security of the Sahel region, these actions include an acknowledgment of structural issues that exacerbate the malfunctioning of the Malian state and lack of social cohesion. These structural issues constituting the root causes of the current crisis are also affecting the Malian transitional justice process, which I will turn to introduce next.

5.2. Transitional Justice in Mali

As the definition of transitional justice suggests, transitional justice process consists of several different legal and institutional processes. In Mali, the core of transitional justice process is mandated for a single institution, the Malian Truth, Justice, and Reconciliation Commission (*La Commission de vérité, justice et réconciliation*, CVJR). CVJR was established as a part of implementation process of the Accord for Peace and Reconciliation in Mali emanating from the Algiers Process⁷ (hereinafter referred as the Algiers Accord). The signatory parties of the Algiers Accord were the Malian government together with two coalitions of armed groups, the Coordination of Azawad Movements, and the Platform of armed groups that were fighting against the government and each other (Nyirabikali 2015). The original mandate of CVJR was prolonged, as it was not able to finish its work within the original time frame extending from 2014 to 2017. The hearings of the Commissions will continue until June 2021, and the work is expected to be finished by December 2021.

The Algiers Accord makes a reference to the need to address the root causes of the crises, “and to bring about genuine national reconciliation by reappropriating history through

⁷ *Accord Pour la Paix et la Reconciliation au Mali - Issu du Processus d'Alger*, dated 20/06/2015 with signatory parties of the Accord being: The Government of Mali and le Mouvement national de libération de l'Azawad (MNL), le Haut Conseil pour l'unité de l'Azawad (HCUA) et le Mouvement arabe de l'Azawad (MAA), le Mouvement arabe de l'Azawad-dissident (MAA-dissident), la Coordination pour le peuple de l'Azawad (CPA) et la coordination des mouvements et fronts patriotiques de résistance (CMFPR). (The University of Edinburgh nd.).

national unity, while respecting the human diversity which characterizes the nation of Mali”. In promoting national reconciliation together with promoting truth and fight against impunity, the Algiers Accord offers two mechanisms, the CVJR and the International Committee of Enquiry, the latter of which has a mandate mainly to recognize serious violations of international humanitarian and human rights law, including conflict-related sexual violence. Consisting of only three Commissioners, and working rather independently, the International Committee of Enquiry has a mandate to provide a report that has not yet been published. Nonetheless, the Committee has had an influence on the national legislation relating to the transitional justice process. I will come back to this later in the following chapter.

CVJR was established as a part of the implementation of the Algiers Accord to investigate human rights violations, with an emphasis on crimes committed against women and children. Out of 25 commissioners, five are women, two of which have political affiliations, and three civil society affiliations. According to Jenny Lorentzen (2017), compared to other mechanisms established through the Algiers Accord, five out of 25 is a strong female representation. Lorentzen states that civil society inclusion in the peace negotiations has been minimal, but in the case of CVJR civil society participated in the nomination of commissioners, which could partly explain a higher representation of women (2017: 3). In contrast to this, an interviewee thought that women’s organizations’ voice had not been heard enough in the establishment process resulting to the inclusion of some groups to the work of CVJR which might hinder the security of women who testify (CSO Bamako 8). This contradiction indicates some level of communication problems and discontent amongst civil society actors regarding the design, establishment, and implementation of CVJR.

CVJR’s mandate is to:

- investigate cases of serious individual human rights violations and/or collective acts committed in the country, and specifically those committed with regard to women and children;
- carry out investigations related to individual cases and/or collective memory impairment and cultural heritage;
- establish the truth about serious human rights violations and property crimes cultural sites mentioned above, situate their responsibilities, and propose measures to repair or restoration;

- create conditions for the return and social reintegration of refugees and displaced;
- promote intra- and inter-community dialogue, peaceful coexistence between populations, and the dialogue between the State and the populations;
- promote respect among communities for the rule of law, and for republican, democratic, socio-cultural values and the right to difference.

The mandate of CVJR consists of collecting testimonies from people around the country. There are in total six ‘antennas’ outside Bamako to reach the more distant areas. In each antenna, in addition to the person in charge there are ‘listeners of testimonies’, who are there to listen to the victims, and ‘advisors’ who are in charge of awareness-raising and considering the reparations program. According to a Commissionaire of the CVJR, there are also women recruited to work in the antennas in order to provide listeners for the victims in case they do not want to talk to a man. This is crucial for the mandate to be fulfilled, as it considers especially harm done for women and children. Until now, there are in total more than 16 000 testimonies gathered. These testimonies should work as a basis for deciding on reparations for victims.

The Commission works through five sub-commissions that oversee 1) establishing the truth, 2) awareness-raising and dissemination of information, 3) reparations and support, 4) the final report, and finally 5) gender. The sub-commission of gender plays a significant role as the rest of the sub-commissions are required to consider gender as their focal point, thus reporting all their activities through the sub-commission of gender.

As I will highlight in the following chapter, the work of the CVJR is largely depended on civil society. Organizations providing for example legal assistance to victims are guiding victims to give their testimonies in the antennas, which is the only way for the victims to become acknowledged in the proposals for reparations following the work of the CVJR. The Commission is not mandated to provide the reparations, but it will provide a proposal for the government according to which the reparations would be executed. In addition to the recommendations for reparations, the final report should provide with recommendations on the resolution of the crises, and on reforms to guarantee non-recurrence. These recommendations together with the reparations will be implemented by another body, which will be established after the mandate of CVJR has ended (CSO Bamako 7).

Essentially, CVJR is not a tribunal aiming at prosecution, although it does not exclude victims to proceed to criminal justice with their cases. Rather, the Commission is a body aiming at advancing the reconciliation process by leaning on the four elements of transitional justice (ICTJ 2020). The Commission provides both public and private hearings. Some of the public hearings are shared to the broader public by television screenings.

In addition to the Commission, there are also other justice measures that play a role in the Malian transitional justice process. The International Criminal Court (ICC) has been active in Mali since 2013, and with the lead of Prosecutor Ms. Fatou Bensouda, the ICC is investigating alleged war crimes, including rape, occurred since January 2012 (ICC 2013). On the national level, there is the National Commission of Human Rights, which should oversee the application of international human rights norms. It is not as accessible as the antennas of the CVJR, thus having a limited role in providing access to justice for people living in rural areas. In addition, the anti-terrorist special judicial pole (*Pôle judiciaire spécialisé au Mali*) working since 2013 considers now also war crimes, crimes related to genocide, and crimes against humanity, but it is yet to give out any convictions.

Looking at transitional gender justice from the very the simplified perception, i.e. whether different judicial instances have convicted wrongdoers, all judicial instances have struggled in convicting on conflict-related sexual violence. These kinds of human right violations are often highly sensitive and challenging to bring in front of national or international courts, due to few women actually seeking justice from formal institutions accompanied by the lack of evidence and willingness to testify (McKay 2000). Thus, Lorentzen et al. (2019: 11) point that

CVJR has the potential to play an important role in this respect and it is the only mechanism in the Algiers Agreement that has a clear gender perspective in its mandate and working methods. The presence of gender expertise, including two experts on gender and transitional justice seconded by UN Women, has played a key role in enabling a gender perspective in the commission.

Poulton et al. are highly critical regarding the objectives of transitional justice that would be depended on state institutions:

"The government," said Minister Diarra⁸, "intends to put in place a system of transitional justice that reconciles needs of justice with the demands of permanent peace and true national reconciliation." That will be a major challenge: reconciling Malians with the French colonial institutions they inherited 54 years ago, but which most of Mali's population has never liked or understood. Mali's Truth and Reconciliation Commission

⁸ The acting Prime Minister in 2012.

(*sic.*) will be at the forefront of the system for transitional justice: but will the government and the UN give it the authority, creativity and resources it will need to be successful? (2016: 306–307.)

This point becomes of importance in relation to promoting gender justice, because as it has been pointed in earlier, in a context where there is legal pluralism women's promotion might be hampered by local power asymmetries prevailing in state justice institutions (Bendaña & Chopra 2013). As Sriram (2007: 589) notes, in cases where people are not used to, or aware of formal justice, establishing Western-style trials may be unfit for the context. These points suggest that 'modern' justice might not be the most effective way to proceed with transitional justice process and to promote gender justice in the Malian context. The results in the following chapter give some support for these views, as we come to the empirical part of this thesis. The chapter provides with data and tools to look at whether, to what extent and how the EU has supported transitional justice process, and the prospects for the realization of transitional gender justice in Mali.

6 RESULTS

In this chapter, I present the results of the thematic analysis. The aim is to create an understanding of aspects that have an impact on the realization of transitional gender justice, and what kind of approach the EU has adopted in providing support for transitional (gender) justice in crisis-affected Mali. The chapter is structured according to the research questions presented in the introduction. First, I address issues rising in the answers of the interviewees relating to women's vulnerability and gender injustice in Mali. These issues touch upon the structural questions that affect promotion of gender justice. Second, I address questions relating to women's access to justice that rose frequently from the data. The second section, then, suggests what kind of obstacles women face in seeking redress. Third, I consider what kind of issues the interviewees considered regarding promotion of women's rights and gender justice in Mali. This is followed with a deliberation of the role that civil society has in transitional justice process and the promotion of gender justice. Finally, I summarize the results of the data collected on the European Union's approaches to support transitional (gender) justice in Mali.

6.1. Women's Vulnerability and Gender Injustice in Mali

There is a wide consensus among the interviewees Malian women, girls, and children have suffered the most from the crisis. The crisis has exacerbated women's vulnerability, which was grave from the outset in many parts of the country. The results suggest, that reasons for women's vulnerability derive from the marginality that is produced through socially and culturally constructed structures that prevail in communities, institutions, and modes of governance. The crisis has, in many ways, forced the women in precarious circumstances to even more severe precarity.

In Mali, the women generally bear all responsibility on the well-being of children. This is one major reason for the aggravating vulnerability of women, as the women cannot flee as easily as men (CSO Bamako 1). While fleeing is difficult for women, the security situation has gotten so bad in many places that it has resulted in massive displacements. In 2017, ASFC consulted 3775 victims of whom 81,4% reported forced displacement (ASFC, nd.). For many women, this has meant having to move to an unfamiliar environment, where their insecurity prevails as they have no social networks, or means to sustain the family (CSO Bamako 8).

The displacements aggravate equally the economic marginalization of women. Many interviewees pointed to a widespread problem in Mali where most women are deprived from economic independence. One of the interviewees used the term “economic violence” when referring to women’s inability to participate in any economic activity. ASFC notes in their report that due to the conflict, and the consequential displacement, 94,3% of male and 89,4% of female victims had experienced a major perturbation on their professional and economic activities (ASFC nd: 14). Women’s environmental rights are related to the question of economic autonomy especially in rural areas where climate change threatens women’s livelihoods, which is largely depending on agriculture (CSO Bamako 2). In addition to the economic precarity that rural women face, many interviewees pointed out that they are in the most vulnerable position in terms of the crisis as well:

Today the conflict does not take place in Bamako – it is in Mopti, in Dogon, in Ségou, in Macina... Women cannot move for the markets, and going to the fields is also problematic. Economic activities are on their knees — and when there is insecurity it puts the women in danger, men too but women are the main victims. (CSO Bamako 4.)

Women’s economic and social marginalization is connected to lack of education. Illiteracy rates among women are high, and even if parents nowadays consider girls’ education valuable, their schooling path is often cut short. Socio-cultural aspects play a significant role in shunting women to the margins of the society and decision-making processes. Strong, patriarchal structures continue to suppress women, and religious leaders use their power to maintain these gender inequalities. An interviewee points out that the use of power is unrestricted, which can be observed by e.g. listening to the radio, the main source of information in many rural parts of the country where illiteracy is common:

Nothing is regulated regarding communications in relation to women and the environment in which we [the women] are. We hear all kinds of stories about women. Until today, I have only heard one program that clearly defended the rights of woman, on radio Kledu. It was an Islamic imam who passed the message truthfully, and told precisely what legal texts regarding women's rights say. But in Mali from one hundred radio stations, and Islamic radio stations, you will find only one radio station that speaks clearly about the rights of women and all other radio stations only insult women. — The environment is hostile to women, and insecurity prevails. (CSO Bamako 8.)

The socio-cultural realities are severely affecting women’s opportunities for political participation, and thus pursuing political advocacy work. Women do not have a strong role in decision-making processes (CSO Bamako 2), and for example in the security forces their representation remains low (EUCAP email interview). The legislative path is

difficult to take in terms of promoting women's rights, as men are reluctant to advance any women's issues without a strong support of the president of the republic:

For example, when we advocated the law for the promotion of gender, groups gathered to say that they do not want this law to be adopted. This law is not even in favor of women but the law says that out of every hundred decision-making positions, thirty must go to women. — Finally, they passed this law by secret ballot in the assembly. No man in the assembly wanted to show that he voted for this law, even though he has a mother, aunt, sister, daughter, but no one wanted to show that he is for women, and it is very difficult. The law was the will of the head of state, and those who were against said they would vote because of the head of state but personally they were against it. (CSO Bamako 8.)

Being highly critical towards the government, the interviewee perceives that the government's hostility against women can be observed from the lack of finance allocated to the implementation of gender promotion laws. The accountability resides with the president who, according to the interviewee, has unlimited power over the ministries and other state authorities. Many interviewees mentioned poor governance and corrupt practices belonging to the everyday of Malian people, and one interviewee brought up that corrupted governance has been motivation for some to take up arms (CSO Bamako 4).

While marginalization and prevailing structural violence affects women's possibilities in relation to economic autonomy and political participation, the on-going crisis inflicts violations of women's human rights every day. All interviewees addressed the question of gender-based violence, which is a severe problem in Mali. According to the EUCAP interviewee, some women even accept domestic violence in certain situations where they e.g. refuse to have sex with their spouses. Widespread abuses, which have exacerbated due to the crisis, include sexual violence, rape, forced and early marriage, kidnappings, and physical assault. Consultations of victims conducted by ASFC indicate that many of the rapes have been committed in front of family members in order to weaken the family and community ties (ASFC nd: 14). As another ASFC report from 2019 state, the abuses inflicted due to the crisis can constitute as war crimes and crimes against humanity (ASFC 2019: 19), and thus they can be prosecuted in front of the national courts, the ICC, and the special judicial pole. Widespread sexual violence, including rape, could be prosecuted as a war crime, but the experiences women have lived through have far-reaching consequences with regards to women's access to justice in Mali, which I will address next.

6.2. Access to Justice

In addition to lack of access to political and decision-making processes Malian face multiple obstacles when they are seeking redress for violations of their rights. The case of Mali suggests that women have limited access to formal justice systems, and traditional and customary justice practices play a significant role in people's lives when community leaders are the sole actors providing means to resolve conflicts. Generally, issues regarding access to justice are regionally variable. Difficulties that touch upon the whole population but are present especially in lives of people living in the north and the center parts of Mali relate to the collapsed state structures. Put simply, the state structures and therefore many services such as justice are absent from many places. Thus, many face a situation where there is simply no place to seek justice. This problem augments when women are displaced to areas where the state is practically non-existent. The lack of structures where to invoke one's rights is connected to insecurity that is pervasive especially in the case of displaced women.

Moreover, even if there are courthouses with judges, many of the interviewees brought up that people have little or no trust towards the authorities. A representative of a CSO from Gao describes the situation there:

Currently in Gao, people do not have justice anymore. People prefer to go to solve their problem with the marabouts⁹ rather than going to the judge. This is the case in Mali in general, people are too afraid of justice, because people think that justice is not fair, that judges do not follow law, so that's a problem.

Many interviewees brought up the idea of a corrupted, partial, or biased justice. Also, interviewees that had accompanied and assisted victims in taking legal action indicated that cases do not proceed in the national justice system. The incompetence, inability and/or unwillingness of the national justice system to convict these cases were seen as contributing unquestionably to a culture of impunity, which maintains insecurity, especially towards women.

The different organizations interviewed here had filed in total over hundred cases¹⁰, of which the earliest ones had been filed in 2014. One organization alone had identified over 180 victims, of which over 100 had suffered sexual violence. From the dozens of cases filed to different justice instances, none had resulted in conviction until now. Due to

⁹ *Marabout* is a Muslim religious leader.

¹⁰ One interviewee brought up that due to lacking coordination amongst CSOs working with victims some cases ended up being filed twice.

persistent advocacy work on behalf of the civil society, the mandate of the anti-terrorist special judicial pole (*Pôle judiciaire spécialisé au Mali*) was extended to cover also war crimes, crimes related to genocide, and crimes against humanity. Although the judicial pole extended the disposable means in the national justice system to seek redress for human rights violations, no case has proceeded there either. The only cases that have moved forward are cases that were filed in the ICC, which, according to one interviewee, will proceed with first hearings in July 2020. As I will also point out later, these cases were possible to take to the ICC with the financial aid of the European Union.

Some of the interviewees perceived that the national justice system is maintaining impunity especially after the adoption of *la loi d'entente nationale*, the Law of National Agreement. This law was fought against by many of the CSOs interviewed, because the new law enables in practice the judge to close a case after 45 days of delays in investigations, which are inevitable within the current insecurity situation. This results, according to the organizations, in pardoning war criminals, as the national system lacks competence in prosecuting international war crimes (CSOs Bamako 1, 4). Also, in the eyes of civil society, the Law of National Agreement does not hold legitimacy as the International Commission of Inquiry for Mali suggested it. One interviewee said that the law lacks the 'voice of the victims', which should derive from the process, and the report of CVJR (CSO Bamako 1). The voice of the victims is, therefore, seen as the ultimate source of legitimacy and efficacy in the fight against impunity, whereas the International Commission of Inquiry is seen rather privileging the reconciliation process and the functioning of the national justice process.

As the earlier quote from a representative from Gao indicates, religious and community leaders are in many cases the only means to seek justice. Distrust towards national justice makes both men and women turn to religious and local leaders "as she would trust him more [than formal justice]" (CSO Bamako 3). This is similar to the case of Sierra Leone, where, according to Sriram, "85% of the population does not have access to formal justice and relies upon traditional justice" (2007: 589). This has repercussions in relation to support policies; customary justice might be the ultimate choice of women even if there would be more formal justice instances available.

The interviewees did not address local customary justice as hindering gender justice in their answers; on the contrary, most interviewees perceived the national justice system so corrupted that they perceived it rather valid that people turn to their local leaders. A

research report on customary justice systems in Northern Mali indicate that leaning mainly on these measures might be harmful for women:

These mechanisms likely continue to treat certain groups such as women, youth and slaves unfairly, and a remedy to this problem is likely to require the use of measures such as the establishment of quotas, the creation of competing mechanisms and the initiation of a debate within the community on the question of whether biased treatment is in accordance with the fundamental values of local customary mechanisms. (Goff et al. 2017: 6.)

This view was supported by a representative of a CSO from Tessalit, where most conflicts are dealt with by a customary proceeding with *cadi*, an Islamic religious leader who often consults the Quran to find solutions for intra-communal conflicts (ibid: 15). According to the interviewee, *cadi* needs to be trained and reformed to consider the equal treatment of women and men, and universal human rights. The Algiers Agreement has considered reviewing the role of *cadi* and other customary justice systems, and one of the women's organizations representatives told they had been consulted regarding the reform process. Nonetheless, until the reforms are designed and implemented, the traditional and customary forms of justice seem to potentially hinder the promotion of gender justice as the religious leaders pertain to patriarchal forms of gender relations. On the other hand, customary forms of justice are important to consider in terms of women's access to justice, especially when women are not accustomed to formal justice.

Many of the interviewees thought that lack of education is a major factor in hindering women from seeking justice. Put simply, women do not know about their rights. This is related to the non-domestication of human rights conventions resulting in both women and even legal professionals being unaware of universal human rights:

— The challenge is that the conventions for the protection and promotion of human rights are very little applied and very little taken into account in Mali because regarding these conventions the first obstacle is their non-domestication, that is to say, they are not translated in the national texts. The second challenge is that [human rights] texts are not taught in the curricula of people who are supposed to apply the law; magistrates and lawyers do not know human rights, it is not taught in universities, and [human rights] protection and promotion agreements are not taught. (CSO Bamako 8.)

In addition to lack of education, lack of economic means to provide judicial support is one of the most common obstacles for women to access justice. Invoking any measure that could enforce human rights is often too expensive for a Malian woman, especially in the rural areas. Many interviewees thought that providing economic autonomy for women would be a major step forward in advancing women's access to justice.

As international, national, and customary forms of justice contain multiple obstacles for women in seeking redress, the remaining question is whether CVJR as an important part of transitional justice process provides means for women to access justice. There are two main obstacles for women in relation to CVJR: fear and lack of knowledge. First, after four years of working actively, there is still significant a number of women that are not aware of CVJR and its mandate (CSO Bamako 7). Some think that transitional justice process means impunity, as the process does not directly result in prosecution (CSO Bamako 3). This is especially worrisome, as the only way to be considered in the reparations policies following the work of the Commission is to go to testify to one of the antennas, or to one of the partnering CSOs of the Commission. As I will underline also in the next section, the report of CVJR is connected to reforming the Malian identity and values (CSO Bamako 6). Therefore, it is essential that women's account on the Malian history and the wrongdoings be considered thoroughly in the work of CVJR. As I will stress below, this shortcoming gives weight for the need to support Malian CSOs in aiming at delivering gender justice, because they are the strongest link between CVJR, the communities, and women victims. If women victims do not receive information and support in relation to the transitional justice process, they will not be considered in the reparations policies.

Second, as referred above, most victims who are women have suffered often from sexual violence. One of the most urgent issues regarding women's access to justice relates to socio-cultural issues relating to stigma and shame. Women that have suffered sexual violence are often afraid to seek justice in fear of stigmatization and abandonment of their community. An interviewee who is a Commissioner of CVJR describe the gravity of the situation:

— When one is defiled, at a certain point it is difficult to integrate into society, you can be looked down when you have done nothing, and instead of being considered as a victim you are considered to be waste, and that is a problem. Women really want to be rehabilitated.

Also, women whose suffering become public often end up being victims of social isolation, and they face hardships in finding partners to get married; this is a serious consequence, because marriage and motherhood are important factors in gaining social recognition and status for women in Mali. The difficult task of addressing socio-cultural aspects regarding the extreme marginalization of assaulted women become apparent when considering the choice of words of the Commissioner: even though she

acknowledges the harm that women face due to the stigmatization she decides to use the word *souillé*, tainted, to describe a woman who has been a victim of extreme violence.

According to the Commissionaire, the Commission has tried to identify urgent cases that would need health care, either physical or psychological, and provide them with financial aid to receive care. The commissioner pointed out that the Commission has also aimed at reducing the threat of persistent silence that women often choose instead of seeking justice by allowing people to testify either privately or in public. According to the president of women's rights organization, privacy is not enough to provide security for women, when armed groups are a party of the Commission. Because of the fear of insecurity, women remain reluctant to testify in the Commission.

According to one interviewee working closely with CVJR, there is indeed a grave danger that CVJR will fail in delivering justice for all victims, because the schedule that has been set for the Commission to finish its mandate is too tight as it will not be able to deal with 16 000 testimonies in between July 2021 and December 2021 (CSO Bamako 7). The interviewee points out, that the reason why the Commission cannot stop gathering the testimonies is much due to the fact that there are new victims nearly every day. That is why Mali is a specific case that cannot follow straightforwardly any model for transitional justice from other countries, as the on-going conflict poses its own challenges.

6.3. Promoting Transitional Gender Justice

When the interviewees were asked about ways to enforce women's rights within the transitional justice process in Mali, the answers varied from more of a legalistic approach to perceptions viewing cultural change as a pre-requisite for delivering gender justice. A recurring answer included a plead to listen carefully the victims and acknowledge women's needs in order to follow through a successful transitional justice process:

[To realize women's rights] I think we need to listen to women, to be attentive to everything they say in their testimonies and try to find a solution for them, then try to consider their needs and do proposals to address the needs (CVJR Commissionaire.)

This was also seen to contribute to a more profound change that the interviewee hopes for to come out from the transitional justice process:

J: What type of change do you advocate with regard to transitional justice?

I: The change must be at the level of reparations, so that the people who are victims and who are within the transitional justice process will have a reparation according to their demands, and that does not go without listening to the victims. Although there are public hearings with audiences, we must listen to the victims personally to know their

expectations. It is the expectations of the victims that are important, not the expectations of civil society organizations, the victims are the ones who know what they need, because we tend to presume solutions, but we must listen to the person. (Interview Bamako 7.)

As also brought up in the quote, most interviewees perceived that the most important way to deliver gender justice in Mali is through ensuring reparations for victims through the transitional justice process. This is in line with a report of JUPREC, which consists of extensive consultations with victims of whom 98% prioritized sexual violence to be considered in reparations program, followed by 97% demanding reparations for torture and inhumane treatment (ASFC nd: 101). Although all interviewees addressed the question of impunity as a continuing structural problem fueling the crisis and increasing insecurity of women, most perceived reparations rather than retributive justice as the means to deliver gender justice. This would suggest a broad consensus over the needs of female victims in the transitional justice process, which is to be considered in the reparations program.

A rather clear explanatory factor for this recurring answer is that the interviewees were well informed about the mandate of CVJR. As described in Chapter 4, CVJR is not a tribunal aiming at prosecution; instead, the Commission can consider the victims in terms of recommendations for reparations policies. Contrarily, the JUPREC report mentioned above states that “some respondents expressed their desire to see the CVJR try the perpetrators of the crimes. This type of response shows that the mandate of the CVJR remains little understood by the victims” (ASFC nd: 15). The process allows for the victims to invoke their rights and demand for penalties in front of the national court, the ICC, and the special judicial pole, but this is not required within the CVJR. As pointed above, although victims *can* go to the court, most often they do not afford it. Therefore, the interviewees’ demand to concentrate on reparations seems to answer to the needs of women relating to their access to justice, which derive from their socio-economic realities: gender justice requires that women be provided with the means they need to access justice (CSO Bamako 2; CSO Bamako 6).

Regarding the lack of understanding among the victims in relation to the mandate of CVJR, another recurring answer to advancing gender justice was awareness-raising (*sensibilisation*). This was often seen as a pre-requisite for promoting women’s rights in Mali. A representative of a women’s rights organization pointed to what kind of change one can achieve with awareness-raising and why it is essential for CVJR:

We had to conduct a training in Mopti [with another organization], we trained NGOs, and the leaders of women's associations. Their first thought was that if this [transitional] justice was only to forgive they would not agree with this approach. But after the training they understood, we explained them that these are actions that must be carried out and that there are crimes that can be claimed even after ten years, and that it is a system to demand peace, not to judge them. (CSO Bamako 3.)

Some organizations had either worked with or trained *para-jurists*, actors that work at the communal level with awareness-raising and giving judicial assistance and aid for people. These kinds of actors were seen as useful on the communal level, as they were able to inform the victims about disposable justice mechanisms and guide them to the right authorities when needed. Only skeptical point about awareness-raising campaigns was that it is often difficult to indicate any tangible change or benefit (CSO Bamako 4). The interviewee pointed that it is necessary to consider the right means and instruments for the right target-groups in order to gain results and meaningful change through awareness-raising in relation to human rights promotion.

As mentioned in the beginning of this section, some interviewees were giving more emphasis on legal action than others. Five interviewees brought up explicitly that in order to enforce women's rights and gender justice in Mali, human rights must be domesticated. This includes three actions: translating human rights texts into domestic languages so that women have better access to the texts that now are usually in French; harmonization, i.e. making sure that women's rights accorded in international human rights conventions are accorded to women also in national legislation; and popularization and dissemination of information about women's rights, and training of legal professionals. Some interviewees addressed that extensive awareness-raising and training especially amongst local and religious leaders and communities is needed, including amongst *cadi* (CSO Tessalit, CSO Bamako 3). Following suggestions to enforce women's rights via legislation, the interviewees pinpointed that there should be broader accountability regarding implementation of the laws. One interviewee thought that at the moment there is no secured financing to implement gender-laws at all (CSO Bamako 8).

In addition to the legal actions, many interviewees pinpointed the need to change the mode of governance and promote women's representation in decision-making processes to achieve any long-term change in terms of women's rights enforcement (CSO Tessalit; CSOs Bamako 2; 4; 8). This indicates that local actors understand gender justice in a broader sense, following largely feminist accounts on transitional justice; access to justice is one part in the transitional process to provide redress for women, but in order to secure

the non-recurrence of violence, the transition needs to address a broad range of political, cultural, and socio-economic realities.

In relation to socio-cultural aspect of promoting gender justice, some put emphasis onto the patriarchal structures of rural communities, where any steps in relation to women's rights should be taken only in case of approbation of community and religious leaders:

To help communities, you must listen to their opinion, which will allow you to plan what you want to do. If you plan things before going to the communities you might create a shock. — But if we go with consultation, dialogue, and awareness-raising, if we go first to the leaders so that they understand that human rights are not a radical change in the society but a process where empowered women bring more income to each family. (CSO Bamako 1.)

A more implicit perception on promoting human rights through cultural change was connected to report of CVJR and its work relating to the establishment of truth about Malian history since 1963, and the recurring violence until the events of the 2012 crisis. Some interviewees highlighted that with the report CVJR simultaneously aims at establishing the truth of the Malian history from the 1960's onwards, and, therefore, foundations for Malian cultural values:

Another important aspect regarding the change [that we hope for] is that the Malians find to address the fundamentals, that is to say that people arrive to an actual awareness of the cultural and societal values of Mali, for example so that when CVJR rewrites the history of Mali, the young generations understand what Mali was and what Mali is going to be tomorrow. (CSO Bamako 6.)

Together with essential reforms, this was seen to contribute to the guarantees of non-recurrence, which is one part of the four elements of transitional justice.

Most interviewees perceived that fulfilling the objectives of CVJR, and ultimately achieving cultural change in terms of women's rights promotion would need extensive civil society engagement. I will address this question next.

6.4. The Role of Civil Society & Transitional (Gender) Justice

Civil society organizations are connected to transitional justice process and the work of CVJR in multiple ways in Mali. The interview data suggests that civil society has an incontestable role in delivering transitional gender justice in Mali. First, CSOs are directly involved in bringing cases to formal justice instances, thus promoting the enforcement of human rights. Many CSOs, also among the interviewed ones, do monitoring of crimes, file cases in court, and give legal assistance to victims. Two interviewed organizations belong to a coalition of six CSOs that has created a database of victims, which is a part

of the Commission's mandate. The coalition works with CVJR to help them in creating recommendations for reparations based on the database.

An interviewee told that based on the database they has carried out in total 88 lawsuits for sexual violence. One interviewed CSO had collected over 600 cases after 2014 in the north and center of the country, of which 199 were later identified as victims of the conflict, meaning they had been directly inflicted by the crises. The same CSO had taken legal action through two lawsuits for in total 44 victims. The interviewee points that these cases have not moved forward, because in his view, the justice sector is held back because of putting weight on the implementation of the Algiers Accord, and the reconciliation process (CSO Bamako 1). This is in line with other interviewees that perceive that the national justice system is not providing with sufficient means to seek redress, especially for women, as the cases move slowly.

Second, the gender-sensitive approach that CVJR is aiming at applying is much depended on the expertise of civil society actors. Many of the CSOs told they have done awareness-raising in communities and training of local leaders and legal authorities, including CVJR staff in relation to women's rights and gender-sensitive approaches to transitional justice. Moreover, some of the interviewees have done capacity building and training with other CSOs about similar issues, so that they would be able to take better care of victims who seek help from CSOs. As an example, in addition to doing awareness-raising about women's rights in communities, women's organizations train other women's organizations how to conduct awareness-raising.

One interviewed CSO was only tangentially connected to the work of CVJR, as they were working on women's economic and environmental rights. Nonetheless, the interviewee told that some of their organization's network members had benefitted from awareness-raising trainings that had been arranged by CVJR partner organizations. This suggests that the training actions that CSOs has organized in cooperation with CVJR to serve the transitional justice process are providing tools for the Malian civil society to work for women's rights enhancement in a broader sense. Still, some interviewees noted that there is a lot of work to do in terms of training civil society organizations e.g. about the mandate of CVJR, as well as the magistrates about women's rights.

Many interviewees thought that awareness-raising has a straightforward link to the success of the transitional justice process. An interviewee who had worked also in other Sub-Saharan countries as an expert on transitional justice tells:

According to my experience with transitional justice processes, the process is very likely to succeed if society or the population is truly mobilized behind the commission or if the actors of civil society are really mobilized to support the Commission. Then, the commission has a good chance of succeeding. To enable mobilization, it takes a lot of awareness-raising, sensitizing people. The process needs to involve all layers, go to the children, to young people in schools, to women who had no access to education, we need to explain why we created CVJR, what CVJR must do, who is in it, what mandate it has, what the victims can do within the process. It takes time to reach out to them, it needs to involve the media, have debates... The Commission must ensure that it has popular support. (CSO Bamako 7.)

The interviewee was worried about the absence of popular support for CVJR in Mali and thought that much of the resources should now be targeted in this direction. These points are largely in line with Andrieu's (2010: 594) notions about the important role that civil society carries out in delivering legitimacy in relation to transitional justice process. This need seems to become even more pressing in the case of Mali, where the population perceives authorities, especially in the justice sector, mainly corrupted, and where civil society considers the governance as too centralized. As one interviewee put it, the civil society is "there to question the government; we are the voice of the ones without a voice" (CSO Bamako 9).

An essential observation regarding CVJR, reparations, and gender justice is that it is necessary to testify in front of CVJR in order to be acknowledged as a victim and therefore to be considered in the reparations policy following the recommendations of CVJR. From the interview data it becomes evident that the civil society is often the sole actor to guide victims with the transitional justice process. In other words, civil society actors are in many ways a necessary link between victims and reparations. As victims are often unaware of CVJR, civil society actors are often the first ones to provide accurate information about the transitional justice process and the reparations. As described above, CVJR has in total six 'antennas' around the country where people can go testify. In addition, CVJR has partner CSOs, some of which I interviewed. Especially these CSOs have had a major role in guiding and assisting victims in handing out their testimonies in the antenna offices around the country.

One representative of a CSO working closely with CVJR pointed that it was the Commission that approached them to establish collaboration to reach more victims. This was also because the CSO had started to build up a database of victims, which has

expanded in collaboration with other CSOs. An interviewee provided a contradictory experience from Gao expressing that the antenna in Gao had not contacted their CSO. This suggests a worrisome miscommunication between the actors in Gao. The victims might be unaware of the existence of the antenna and thus stay outside the recommendations for the reparations. This is especially critical because according to the interviewee, people in Gao are faced with the conflict regularly, and women are especially vulnerable in that are due to the pervasive insecurity. Also one Bamako-based CSO thought that CVJR had failed in communicating with the civil society, which is why the interviewee expressed discontent towards the Commission. The lack of communication would explain why the coordination of actions between different CSOs giving legal aid has fallen short resulting in doubles in filed cases in the national courts.

One interviewee perceived that the support for NGOs, associations giving legal assistance, and especially women's organizations should now be targeted to enforce their capacities in relation to investigations on sexual violence, sensitive treatment of victims of sexual violence, and ensuring the progress of cases in courts. An important aspect to note here is that especially when it comes to working with victims of sexual violence, many interviewees pointed that only the local actors have the expertise to work and give training on those issues. They pointed that the local CSOs are already close to the victims and the communities, which ensures the efficient use of resources. Moreover, the local CSOs are the only actors that can reach some of the rural areas. This is why many emphasized that the support should be targeted to the local actors and not international organizations, which would face a difficult task in creating relations with local communities and the victims.

Many interviewees brought up that in order to secure the protection of human rights there should be better commitment to the protection of human rights defenders. Some thought that the work has become dangerous in the crisis areas. One CSO told that also the government has been hostile in a case when their report was critical towards the Malian army. This suggests a "narrowing space of the civil society" in Mali. Interestingly a representative from Tessalit, which is a Northern city close to the border of Algeria, described the security situation in his region having gotten better due to armed groups. The interviewee works for an NGO, which aims at emancipation of women in the region. Earlier, the security was compromised because of corruption, but now the interviewee describes that the working environment is better as the armed groups consider NGOs

important for the communities. All in all, security of civil society actors is a defining issue in enforcing women's rights and transitional gender justice in Mali.

6.5. The European Union Support for Transitional (Gender) Justice in Mali

The final research question set out in the introduction is related to the role that the EU has in relation to transitional (gender) justice in Mali. In this section, I aim at approaching the question by examining what kind of support the European Union has provided for Malian transitional justice process with a focus on its relation to delivering gender justice. In other words, this section aims at answering a simple question: what does the EU *do* in Mali in relation to transitional (gender) justice? Examples of related projects, funding, and approaches are presented to provide an overview of these issues.

Unfortunately, there is no exhaustive list of projects and missions that would give an exact answer to the question at hand. In fact, the EU does not refer explicitly to transitional justice in any of its projects or missions in Mali. Actions that I consider here relating to EU's support for the Malian transitional (gender) justice derive from a definition provided in the interview with the EU Delegation:

Interviewer: "How do you perceive the role of the EU in relation to transitional justice process in Mali?"

EU Delegation staff member: "The answer depends on how you define transitional justice. You can put anything to the concept. We support justice, including CVJR. We support justice e.g. through infrastructure such as buildings, and by training lawyers, judges and other personnel of the justice system. We also have programs, which support women's organizations and women in access to justice. One part of the work is also support on rewriting laws, and this could be referred also as transitional justice. Everything we do in regard to justice can be referred as transitional justice."

The EU has adopted a broad definition of transitional justice that also includes the formal national justice sector reform. Thus, the support for the justice sector extending in multiple directions could be considered as support for transitional justice. This indicates that the EU's definition is what Arthur (2018: 240) refers to as stretching the already 'elastic' concept of transitional justice to include processes that fit into donor paradigms.

Already before the adoption of the EU Policy Framework in 2015, the EU has emphasized the national formal justice sector reform in Mali without any reference to transitional justice. An interviewee who had worked in the EU Delegation in Mali from 2013 until 2016 told that at his time, the EU was ready and eager to support the work of the Commission, but this was not possible due to extensive problems in the constitution of the Commission, which was known then by the name of Dialogue and Reconciliation

Commission until the establishment of CVJR in 2014. According to the interviewee, the EU allocated resources to support the national justice system especially in the north of Mali “with some classical interventions to the justice sector”, but transitional justice was not considered as an element of these actions.

After 2015, the EU’s actions that have adopted a legalistic approach to support transitional justice process and aim at strengthening the formal justice system include support for justice infrastructure, training of lawyers and other personnel, and rewriting laws. This approach has meant the continuation of supporting initiatives that touch upon legal realms that used to belong under the powers of nation-states (Oomen 2005: 888–889). Although in the quote above the interviewee mentions that the EU supports also women’s organization and women’s access to justice, the database on EU funded projects in Mali suggest that these contributions are not as major as other actions that can be understood as belonging to the liberal peacebuilding paradigm where state is the core actor in the transitional process. The support for CVJR that the interviewee mentions refers to political dialogues that the EU Delegation has with CVJR, and to a provision of a technical advisor working as an expert for CVJR.

Mere euros are not a sufficient indicator for impact of policy actions, nor can different funding decisions be compared straightforwardly with one another because the funding has been granted by different EU bodies with differing terms. Notwithstanding, the size of funding is a good enough indicator for suggesting levels of commitment to different areas of intervention. As referred above, the EU has not supported any project that would explicitly refer to transitional justice in Mali. After 2015, the EU has supported projects aiming at reform and (re)construction of the national justice system by nearly eight million euros mainly through the European Development Fund (EDF)¹¹. These projects include what the interviewee above referred as e.g. training lawyers, judges and other staff of the justice system, and building infrastructure such as tribunals to areas that have either been ruined or where court houses have never existed before.

Straightforward financial support for the Malian CSOs for actions related to justice and gender justice consists of a project support of about half a million euros for a CSO working with victims together with another half a million for a project aiming at

¹¹ The 11th EDF allocated in total 30.5 billion euros for the period of 2014–2020. The fund focuses specifically on ACP-countries. The EDF remains outside the EU budget, although the European Commission manages most of the funds. Therefore, European Parliament has a lesser role in allocating the funds compared to other development cooperation instruments such as EIDHR. (D’Alfonso 2014.)

awareness-raising about women's rights. This support is provided through EIDHR¹² funding instrument. In comparison, the Swedish government has alone provided ten million euros to a Malian CSO for enhancing access to justice for all. (Coopération de l'Union européenne au Mali 2019.)

The European Commission has lately committed extensive funds for a multilateral project called 'Spotlight' to fight gender-based violence. Mali belongs to a group of eight African countries where the project has in total 250 million euros to fight violence against women and girls (European Commission 2018). As nearly all interviewees pointed violence against women out as a severe problem that is present in women's everyday lives, this contribution could be considered as an important part of transitional gender justice in Mali. The project in question was brought up by two representatives of women's rights organizations who were disappointed about not having been accepted as partners to the project:

Out of 78 organizations that applied, only five national organizations have been selected for the Spotlight program, and among these five there is one EU organization which is not even a Malian organization. This means that four Malian organizations have been selected, and I think, frankly, that that is not support (CSO Bamako 11).

A lack of commitment to include local Malian CSOs to the project is problematic, because the results suggest that civil society is in key role in bringing about cultural change in the communities, and they are needed especially in relation to approaching local (religious) leaders. As many interviewees pointed out, when it comes to capacity building of civil society in relation to transitional gender justice, local women's organizations have the expertise especially in socio-cultural issues that seem to hinder gender justice. Some interviewees told explicitly that foreign organizations do not have adequate means to work on transitional gender justice in Mali because they do not have established connections to local leaders and communities where awareness-raising is needed. Therefore, inclusion of women's organizations in the project would be important, and it would contribute to strengthen women's ownership and leadership in actions relating to transitional gender justice.

When asked to define gender justice, an interviewee from the EU Delegation called for an acknowledgment that mainly women were victims especially during 2012–2013, as

¹² Through European Instrument for Democracy and Human Rights (EIDHR) the EU has allocated in total 1.3 billion euros for the period of 2014–2020 "primarily to help civil society to become an effective force for political reform and defense of human rights." (European Commission 2019: 116.)

well as to the need to provide reparations to these victims. This suggests that in the EU Delegation there is an understanding about transitional gender justice being closely connected to the work of CVJR. Nonetheless, it seems that the understanding has not fully translated into action, because the results presented above indicate that in order to secure an effective work of CVJR in relation to gender justice and reparations, it would require the support of local civil society actors. I interviewed two CSOs that had received funding from EU. These CSOs had received both approximately half a million euros each. It soon became clear that with EU's funding these CSOs had been able to contribute to transitional justice process in multiple ways:

It is thanks to the EU that we have led a lot of actions in relation to justice and transitional justice: documentation, investigations, reports, alerts on the situation of human rights, complaints – including for women, mobilization of Malian civil society around the issue of the state of human rights, the fight against impunity... All this was achieved thanks to the support of the EU. But unfortunately today we no longer have this support, this support has ended and today the real threat of our work is how to ensure the follow-up of the cases already filed in the justice instances. (CSO Bamako 4.)

Ending of the funding is an alarming sign and might threaten the work of CSOs working with CVJR to deliver transitional gender justice. Another prove of the effectiveness of EU's support to civil society in regards to gender justice is that the same CSO had been able to file sexual assault cases to the ICC, which has been until now the only justice instance where the cases have advanced. Therefore, the discontinuity and lack of funding for CSOs seems to threaten gender justice because many women are depended on legal assistance that they received for free from these organizations.

The European Commission has allocated five million euros for 2018–2020 for a project aiming at capacity building of the Malian civil society (European Commission 2017). Among other aims, the project called 'HIBISCUS' aims at "helping CSOs to bring about new forms of communication" (Focus group meeting January 2020). This indicates that the project answers to the need of developing new ways to conduct awareness-raising, which nearly all CSO actors brought up in the interviews as an essential part of promoting gender justice. The funds are allocated via the Malian government, which raises the question about the willingness to consider especially women's organizations' inclusion in the project, when the government has arguably dismissed women's rights promotion without the blessing of the head of state. The EU's funding conditions become of utmost importance in this case.

A report on the EU's peacebuilding interventions in Mali suggests that the general support that the EU provides for Malian civil society through PAOSC II –program aiming at capacity building is expected to contribute to a frictionless cooperation between the state and CSOs. According to the report, “[stakeholder CSOs] generally deplore the role assigned to civil society by the EU, namely “as support to the state”. CSOs would prefer not to be treated as ‘a project’ but as a full partner, “a sector in its own right” (Djiré 2017: 53). This suggest that the EU has not fully considered the post-colonial state consisting of multiple tensions between civil society and the government, which is broadly perceived as corrupt and incompetent, as pointed in the results above.

Finally, EU's extensive commitment to the security sector reform in Mali provides support for my argument regarding the EU's approach to supporting transitional justice that is dominated by liberal state- and peacebuilding paradigm. In 2014, the EU launched a capacity-building mission in Mali under the Common Security and Defense Policy (CSDP). This mission is part of a broader set of interventions in the Sahel area, and in addition to EUCAP Mali civilian mission, where EU provides training for Malian security authorities, EUTM Mali mission provides training for the military. In February 2019, EUCAP's mandate was prolonged until January 2021, and for this period the Council allocated 67 million euros in total (Council of the European Union 2019).

The mandate of EUCAP does not explicitly consider justice system reform or support for transitional justice. In an email exchange in March 2020, a human rights and gender advisor working in Mali in EUCAP points that while the mission is aiming at supporting security sector reform, it shares mutual goals with actions aiming at the reform of the justice system:

Through strategic counseling and training we aim at strengthening the security forces' capabilities in leadership, human resources, setting up new units, and in transparent criminal investigations. All these actions enhance the prerequisites for due processes within the justice system, and for fighting the culture of impunity.

According to the advisor, there is an increasing need for training on gender-based violence, and the operation has provided training on human rights. This has an impact in relation to women's rights enforcement and gender justice in Mali as “the police, gendarmerie and national guard are directly in touch with the local population, and their duty is to guarantee security and realization of human rights”. EUCAP human rights trainings' content appears to answer to some of the needs that civil society actors articulated in relation to advancing transitional gender justice, such as training security

authorities on how to treat victims of sexual violence and guide them to (justice) services. In fact, one CSO had conducted trainings of this sort with the support of EU funding, but as cited earlier above, the funding had ended, and the representative of this CSO highlighted that there is “always a need for this kind of trainings” (CSO Bamako 4). The mandate of the EUCAP includes cooperation with civil society, but no interviewee mentioned cooperation with the EUCAP when they were asked whether the EU has supported them.

The interviewee from EUCAP defined gender justice more as a structural question that is connected to the formal judicial system compared to the EU Delegation interviewee who referred also to reparations and therefore to the process related to CVJR:

I believe that the term gender justice means justice, especially for those who have been subject to discrimination, violence and other crimes due to their gender and gender roles. If gender justice is fully realized, the threshold for victims to report the crimes they have experienced is low, their needs will be appropriately taken into account through the proceedings, and the proceedings will progress effectively. If a crime is found, the perpetrators will be convicted and the victims will receive appropriate compensation. In practice, this means that criminal investigations and proceedings run smoothly, and successfully take gender-specific needs and the gendered impacts of certain measures into account.

An emphasis on formal judicial procedures is needed especially in relation to the cases that are pending in different justice instances, as referred in the results above. Nonetheless, reducing gender justice to mean only formal justice is not sufficient in the case of Mali, where – as I will discuss in the next chapter – post-colonial state poses several challenges for formal state structures, and where women still turn in many cases to local leaders to seek redress. The EUCAP trainer acknowledges the marginalization of women as a major problem in Mali. The problem can be observed from the small representation of women in official positions, including the security forces. As a part of gender-sensitive training, the EUCAP mission aims at emphasizing the need to include women to the work of the security sector.

Current policy priorities regarding the EU’s support actions in relation to justice sector in Mali are defined by the EU together with local ministries, namely the Ministry of Justice (Focus group meeting, January 2020). This provides with national ownership for actions supported with EU funds, but when considering the extreme difficulties that especially women face in Malian national governance and decision-making processes, it is possible that issues regarding gender justice are partly dismissed by local ministries. This is not to say that the ministries’ priorities would outrun all EU’s policy aims. Nonetheless, these

priority dynamics together with an emphasis on liberal state- and peacebuilding approach that the EU arguably has on transitional justice, it is possible that a gender-sensitive approach to transitional justice and, therefore, enforcement of gender justice in Mali is defective.

In sum, the interview data supported with data provided by the EU about projects in Mali (Coopération de l'Union européenne au Mali 2019) suggests that the EU's approaches to supporting Malian transitional justice process and gender justice are multifaceted ranging from support for (re)structuring the formal judicial system to providing technical support for CVJR, and SSR in the form of human rights and gender training. The commitments that the EU has allocated via different funding instruments to these measures range widely and cannot straightforwardly be compared with each other without some uncertainties in conclusions. Nonetheless, it seems that the EU actions focus on strengthening formal national justice system alongside with a broad intervention mission to the security sector aiming at supporting gender justice through gender training on security forces. This supports the view on a prevailing liberal state- and peacebuilding paradigm that defines the EU's approaches to support transitional justice.

In line with the liberal peacebuilding approach, the EU has also supported financially Malian civil society actors working with transitional justice and women's rights. The direct support for civil society appears to be relatively small compared to other actions that touch upon state- and peacebuilding in Mali, and only one technical advisor is allocated by the EU to support explicitly Malian transitional justice by working as an expert for CVJR. Some major funding is allocated for civil society capacity building, which has an indirect effect in relation to awareness-raising and, therefore, gender justice. These funds are, nonetheless, directed via Malian government or with an explicit or implicit assumption of the civil society as a partner to the state, which supports a state-centered approach to support policies in transitional contexts. Based on the analysis done on the CSO actors working on transitional justice and women's rights, it can be argued that in order to fully consider gender-sensitive approach to support transitional justice in Mali, the EU's approach might need to be reconsidered in relation to civil society support, which extensive and long-term, and at least covering the period until the end of CVJR's mandate in the end of 2021.

7 DISCUSSION

This concluding chapter aims at discussing the results presented in the previous chapter. The discussion addresses questions that arise from the critical and feminist accounts on transitional justice presented in chapters 2 and 3, which inform us in questions relating to transitional gender justice in a post-colonial fragile context. The main objective of this chapter is to discuss the challenges and opportunities that the case of Mali presents in relation to promoting transitional gender justice and whether, to what extent, and how the EU has a role in supporting transitional (gender) justice in Mali. Also, I aim to address the limitations of the study that might serve as a basis for future research.

7.1. A case for transitional/transformational gender justice?

Mali presents a complex and understudied case in relation to transitional gender justice. The transitional justice process and work of CVJR are conducted under circumstances that constitute an on-going crisis especially in the northern parts of the country. As much as the mandate of CVJR consists of addressing the legacies of Malian history since the 1960's, it is forced to address human rights violations occurring during its working. Moreover, at the time of writing in spring 2020, there is still one and a half years left of CVJR's mandate. Therefore, the context of the case presents both a difficult task for all actors working around transitional justice and human rights enforcement, and an opportunity to advance gender justice and women's rights promotion through the transitional justice process in Mali. The results suggest that the EU could have a meaningful role in supporting transitional gender justice in Mali if it reconsiders its actions in relation to the transitional justice process that are now largely focused on supporting the formal judicial system and security sector reform.

The definition for gender justice provided in chapter 3 aims at taking into consideration not only the human rights violations inflicted during a conflict but also the structural harm and violence that women face in their everyday lives. In the case of Mali, gender injustice consists of a myriad of political, socio-economic, institutional, and cultural issues that contribute to the marginalization of women. The results point out that the Malian transitional justice process is hoped to contribute to change profoundly the Malian society and the fundamentals of social relations, and therefore also structural issues relating to

women's rights realization and gender justice. Justice for human rights violations – that the transitional justice measures seek to provide – was seen to be connected to social and economic justice.

The results point to the need to carefully listen to women, whose demands regarding reparations should be a focus of the work of CVJR. Also, providing women the means to access justice, as well as securing access to basic services and security when testifying in CVJR, were seen as prerequisites to gender justice. Nearly every interviewee thought that addressing gender-based violence that women face in their everyday lives is an urgent task for the Malian society that needs wide-spread awareness-raising and civil society engagement relating to human rights and the fight against impunity. Collecting testimonies from women to create a thorough understanding of the gendered history of Mali was thought to be important in order to contribute to foundations of new cultural values establishing more equal gender relations. Domesticating international human rights law and training of legal professionals together with religious and customary judicial leaders were seen as prerequisites for a functional formal judicial system that would also work for the enforcement of women's rights. And finally, conducting awareness-raising among communities and women about their rights together with CSOs was seen to bring about long-lasting and profound socio-cultural transformation in relation to gender justice.

This holistic analysis regarding the Malian transitional justice process and women's rights enforcement emerges from the voices of Malian civil society actors of which more than half were themselves women, and most of whom were working with female victims of violence – be it crisis-induced or structural. It is, then, arguable that this emerging model of transitional gender justice answers partly to what Lambourne & Carreon (2016: 91) calls as “a transformative approach to justice and peacebuilding, [which] values the participation of women and their contribution to understanding and implementing transitional justice which meets their needs and priorities”. This kind of transformative gender justice approach answers in many parts to the critiques that feminists have articulated in relation to narrow legalistic and technocratic approaches to transitional justice. Addressing the root causes of gendered violence during both conflict and peace, and broadening the understanding of what transitional justice means for women requires listening to women. Thus, the primary objective of designing, implementing, and

supporting gender-sensitive transitional justice measures should be in including the voice of women to the process.

The message deriving from the voices of the interviewees is rather clear and resonating with Lambourne & Carreon's conception of transformative gender justice: socioeconomic and political justice is needed to change structural marginalization and access to justice for women. Moreover, holistic transformation that would secure women's rights within the transitional justice process and in the "post-transition" times requires long-term dialogues and advocacy-work among local communities. (Lambourne & Carreon 2016: 88–91.) Lambourne & Carreon address the case of transitional justice process in northern Uganda. They refer to difficulties that the national and international transitional judicial actors have in implementing gender-sensitive approaches to address widespread gendered violence. They found that in terms of gender justice the informal sector was pursuing multiple actions relating to transformative justice:

NGOs are pursuing alternative programs designed to better meet the justice and other needs of local affected communities in northern Uganda, with an emphasis on local ownership, participation and social transformation (2016: 88).

As an example, a women's advocacy network was working in communities with multiple issues touching upon "political, socio-economic, and psychosocial forms of justice" indicating an ability to address "a potentially transformative justice and peacebuilding agenda" (ibid.) These results are in line with articles by Andrieu (2010) and Bendaña & Chopra (2013) addressed in chapter 3, who call for putting civil society to the forefront of transitional justice processes to provide political cohesion and alternative legitimacy for transitional justice initiatives while bringing about meaningful change for women. The results of this thesis support these views. Many interviewees pointed to the importance of supporting civil society as a vital actor in bringing about social cohesion and cultural change, while enabling the effective promotion of women's rights through awareness-raising in rural communities.

7.2. Addressing the Post-Colonial State

The perceptions presented in the last section echo also with Scully's (2009) claim, which pleads to look for extra-state actors to promote women's rights in a post-colonial context, where the state has adopted repressive modes of governance from the colonial times. The limitations of the post-colonial state and its effects on the prospects of delivering

transitional gender justice are evident in the case of Mali. The results point to a widely acknowledged need for structural changes in the mode of governance. This was seen crucial in relation to gender justice, as imbalance in political power between genders and corrupt governance are seen to maintain women's marginalization. These results support the views of post-colonial feminist accounts on transitional justice that aim at pointing to the legacies of colonialism that contribute to eroding institutional structures, social cohesion, and political power balances between e.g. ethnic groups, and women and men in the Global South.

In the Malian case, the results suggest that state structures, such as the formal national justice system, have failed to deliver justice and do not not enjoy the trust of people. As cited in chapter 5, also Poulton et al. (2016) refer to "French colonial institutions [Maliens] inherited 54 years ago, but which most of Mali's population has never liked or understood". As many interviewees brought up, most women turn to customary justice because of lack of trust to the authorities. The customary justice measures, and the cultural practices around these measures, should be considered as the main justice instance for women to approach when seeking redress. Therefore, these measures present both a challenge and an opportunity to advance women's rights especially in rural areas, where the national justice system is non-functional. Taking these shortcomings of the Malian post-colonial state institutions and modes of governance into consideration, approaches to enhancing transitional gender justice should be looked for elsewhere than state-centered measures, which might be counterproductive in terms of social cohesion, reconciliation, and transitional gender justice in contexts where people do not trust state authorities.

As argued in chapters 2 and 3, dominant liberal state-centric approaches to transitional justice have implications in relation to delivering gender justice, as the liberal approach lacks a thorough understanding of gender-sensitiveness. The results reveal a strong link between civil society actors and the promotion of gender justice through transitional justice measures in Mali. Based on the analysis above, a gender-sensitive and victim-centered approach for support to transitional justice would require support for Malian CSOs that are in many ways the sole actors providing information and aid for women who have suffered from the crisis and recurring gender-based violence. The results also highlight the role that Malian civil society actors have in bringing about lasting socio-cultural change in the communities that cannot be approached by nearly any international

actors; many interviewees pointed out that only the Malian (women's) civil society actors have sufficient connections and knowledge in relation to the communities, where awareness-raising regarding women's rights and gender justice is needed. The objectives of CVJR and the legitimacy of the transitional justice process cannot be met, if CSOs working with victims and communities also in rural and crisis areas are not funded and their work secured.

7.3. Support for Re-imagining Transitions for Women

I argue that the European Union has shown only partial commitment to implement support policies that would secure a gender-sensitive and victim-centered transitional justice process, and therefore to deliver transitional gender justice in Mali. This is due to the relatively limited commitment to support civil society, when the focus has been in actions supporting liberal state- and peacebuilding. Since the adoption of the EU Policy Framework, the EU has provided support especially for the national justice system reform, while contributing extensively to SSR. The main EU action relating to SSR, namely EUCAP mission, is answering to some of the Malian CSOs' demands regarding transitional gender justice by providing gender and human rights training for security sector authorities, such as the police. The EU's approach to SSR is, therefore, in many parts exemplary, but as Hamber et al. (2006: 287) point out, women's security might not derive from statist approaches that focus on institutions but rather from bottom-up approaches and from women's organizing, which enables the 're-imagination' of security in transition.

Hamber et al. interview women in Northern-Ireland, South Africa, and Lebanon. Their results indicate that in post-conflict context women perceive their security as deriving from economic security, recognition of gender-based violence as a core threat for women stemming from socio-cultural structures, and inclusion of women to governance and decision-making processes (2006: 498–500). These results go nearly hand in hand with the results of this thesis, which would suggest that women's security go hand in hand with transitional gender justice. In addition, these results suggest that in search for relevant approaches for enhancing women's security, women's rights, and transitional gender justice, it is essential to listen to women's demands to create a holistic understanding of a just and transformative transition for women. One way to enhance women's inclusion in the 're-imagination' of transition is to include women's groups, organizations, and

associations to decision-making processes, where transitional justice and peacebuilding measures are designed and implemented. That way the agenda for the transition would consider the needs and priorities of women that might be hindered in contexts where (post-colonial) state governance is rather hostile against women's rights promotion. This would also answer to the call of post-colonial feminists to rather focus on creating arenas for women to engage in 'transformative and inclusive politics' (Kapur 2002) than to be objects of patronizing and victimization.

The relatively limited support for actions relating to CVJR and civil society inclusion in the transitional justice process suggest that the EU's actions focus on supporting liberal state- building, where institutions and infrastructure play a significant role in delivering transitional (gender) justice. Theoretical discussions on the EU's peacebuilding framework introduced in chapter 2 suggest that liberal peacebuilding framework legitimizes post-conflict governance that simultaneously puts emphasis on building sovereign liberal states while conducting interventions penetrating the core of sovereign state. The case of Mali supports this view: in addition to the extensive training missions carried out with Malian security forces and military, the EU's support for transitional justice in Mali is including actions such as training national judicial personnel and rewriting laws – something that could be considered as “matters once protected under the aegis of sovereignty and self-determination” (Sharp 2018: 106). Following Sriram's (2007) and Richmond's et al. (2011) work referred to in chapter 2, the EU's approach to support transitional justice in Mali can be subjected at least partly to the same critique as liberal peacebuilding paradigm, which is inherently a classic civilizing mission aiming at a Western-style liberal state model. The results have pointed out that the EU has also aimed at supporting civil society in relation to transitional justice. This suggests some support for Richmond's et al. (2011) analysis on the EUPF that is aiming at implementing bottom-up approaches to post-conflict governance. Nonetheless, the emphasis remains on SSR and the national justice system, giving support for claiming the EU's approach as deriving from the liberal state- and peacebuilding paradigm.

7.4. Limitations of the Study and Prospect on Future Research

As referred earlier, Ketelaars (2016) points out that noting a lack in the implementation of a policy does not make a policy useless. The aim of this thesis is not to point to the flaws of the EU's actions and thereby make its role in supporting transitional gender

justice in Mali obsolete. Rather, the aim has been to point to the approaches that could be enforced or reconsidered to develop the EU's actions regarding transitional justice towards a more "genuine understanding of specific contexts and needs" (Council of the European Union 2015a: 22). Neither is the analysis exhaustive in relation to policy coherence because it is beyond the scope of this thesis to thoroughly consider bilateral aid provided by EU member states, or support allocated via multilateral cooperation such as UN organizations. These forms of support together with a successful coordination of action undoubtedly have a major effect on the impact of actions in support for transitional gender justice and women's rights promotion. Thus, further research is needed to consider the whole field of donor actions supporting transitional (gender) justice in Mali.

Finally, I address the conceptual limits of the study, namely the inability to address the effects of masculinities in this study. Literature on transformative (gender) justice recognizes the need to incorporate an understanding of the role of hegemonic forms of masculinity in the quest for transformative justice (Ní Aoláin 2019). Also, a critical reading of the EU policy framework suggests that the transformative potential of the EU's policy approaches to transitional justice support is limited in regards to mitigating gender inequalities due to its conservative understanding of roles attributed to women and men (de Almagro 2017). This has, according to de Almagro, implications regarding the local ownership and agency in transitional justice processes, and in creating transformative approaches to justice more broadly.

Poulton et al. (2016) bring this theoretical exhortation to empirical level in the Malian context. In analyzing challenges that CVJR might encounter in its work, they recognize three key events of the on-going crisis. These key events were extreme forms of violence against, first, an ethnic group; second, against women, and third, against cultural heritage. Poulton et al. claim that these events pose a challenge for the Commission to promote 'social capital' and reconciliation, and they consider that "[t]o address these very masculine confrontations, Mali needs to create more space for women to participate [in] politics" (2016: 295). This claim of masculinity being both a partial explanatory factor of the crisis, and a reasoning for advocating women's stronger representation in a transformative sense, point to a need to consider masculinities also in the context of transitional justice. Analyzing the role of masculinities in relation to the prospects of delivering gender justice in the context of Mali is, unfortunately, beyond the scope of this study, and is undoubtedly an important topic for future research.

8 CONCLUSIONS

This case study has analyzed the prospects of delivering transitional gender justice in Mali, while critically analyzing the European Union's actions relating to the support of transitional gender justice in Mali. Based on feminist accounts on transitional justice, and supported with empirical data collected in Mali this thesis argues for a holistic and transformational approach to promoting gender justice and women's rights within the transitional justice process continuing in Mali.

Interviews with local CSOs and other actors working around transitional justice and human rights indicate that supporting civil society and awareness-raising initiatives in communities may provide solutions in relation to promoting holistic societal change aiming at delivering transitional gender justice, and enforcing women's rights in crisis-torn Mali. Furthermore, based on interviews and policy document analysis on the European Union's approaches and actions relating to transitional (gender) justice in Mali, the results suggest that the EU's focus on strengthening the formal judicial sector together with security sector reform might impact the implementation of a truly gender-sensitive approach that the EU Policy Framework on support for transitional justice embraces.

The main issues arising from the case are related to local needs connected to transitional gender justice deriving from the post-colonial context that poses challenges relating to state- and peacebuilding efforts embedded in transitional justice processes. Embracing critical (post-colonial) feminist notions of the post-colonial state and its shortcomings in relation to women's rights enforcement, this thesis argues that the EU's approach to supporting transitional justice in Mali might partly fall short of its broader goals relating to gender justice promotion. These results are more broadly important in the Sub-Saharan African context, where the legacies of colonialism still have a major impact on state- and peacebuilding efforts that are informing transitional justice initiatives and international actors' interventions regarding transitional peace- and statebuilding processes.

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